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THE UNIVERSITY OF ALBERTA

EMILY MURPHY:
PORTRAIT OF A SOCIAL REFORMER

C

BY:
APHRODITE KARAMITSANIS

A THESIS SUBMITTED TO THE FACULTY OF GRADUATE STUDIES IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS

DEPARTMENT OF HISTORY
EDMONTON, ALBERTA
1991

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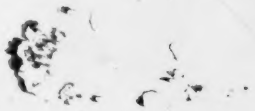

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SUBMITTED BY APHRODITE KARAMITSANIS.

IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS IN HISTORY.

D.C. MILLS

R.C. MACLEOD

RANDI WARNE

E.A. McDOUGALL

DATE: 21 June 1991

DEDICATION

For Vassili, who educated me.

ABSTRACT

Best known as the first female Police Magistrate in the British Empire, Emily Murphy was also one of the most influential social reformers in early twentieth century western Canada. This thesis is an examination of her life, from her childhood in rural Ontario in the later part of the nineteenth century; through her marriage to Arthur Murphy which introduced her to the life of an Anglican Minister's wife; to her travels in Britain where she was confronted for the first time with social problems extant in an urban and industrial nation; to her later exposure in western Canada to the social dislocations created by uncontrolled economic development, increasing urbanization and massive immigration. These early experiences allowed her to develop a platform for social reform that was based on the law in order to effect a "social spring cleaning".

Murphy's values and beliefs were the product of these developments. She revealed a strong sense of morality, shaped by evangelical Anglican theology and traditional Ontario Toryism; moreover there was an attraction to legal solutions for social problems, which drew in part upon her family's strong predilection for the law. Even though Murphy was deeply concerned with the maintenance of the family, both socially and economically, these factors contributed to a reform ideology quite different from the maternal feminism which historians usually ascribe to women reformers. Therefore, this thesis contributes not just to our understanding of the views of a woman of reforming spirit, it also sheds new light on the nature of the social reform movement in early twentieth century Canada. But this work is not simply another examination of the link between women and social reform. It also draws on the growing literature in Canadian legal history to provide the context for an analysis of Murphy's opinions and decisions as Police Magistrate. Therefore, the questions of Murphy's influence on the law, as well as the impact of the law on women, can be addressed.

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TABLE OF CONTENTS

Dedication.....iv

Abstract.....v

Acknowledgement.....iv

1. Introduction.....1
2. The Early Years.....13
3. The Making of a Social Reformer.....37
4. The Social Causes.....51
5. Life on the Bench.....73
6. Conclusion.....107

Bibliography.....113

CHAPTER 1

The obituaries announcing the death of Emily Ferguson Murphy on 27 October 1933 began in the Edmonton *Journal* and quickly spread across Canada.[1] Almost no locality that had any newspaper to speak of missed the passing of one of Canada's most prolific writers; one of her best known social reformers; the first female Police Magistrate in the British Empire; and the person most responsible for the Dower Act of Alberta and the Persons Case. The predominant sentiment noted, almost as a single voice, Canada's mourning for the passing of "a great personality"; her death was considered a "distinct loss to the nation" and was reported by many with "deep regret".[2] Moreover the posthumous accolades did not long remain strictly a national concern; the cry of grief soon spread to English newspapers, and eulogies appeared all over Great Britain.[3]

To many Britons, Canada was perceived as a land of Arcadian freshness, unsullied by the depravity of industrial development such as that of England. And Murphy's several books about her sojourns in the vast North-West assisted in the propagation of this pristine ideal, as they provided a particular picture of the vast Canadian prairies and of typical western Canadian life. In England, there existed a "hope that Canada was developing a society which, while perhaps not so well-mannered, was tougher, more resilient and more likely to survive".[4] But more than her role as a writer, for which she was best known in Britain, Emily Murphy was also a social reformer who attempted, in whatever capacity she could, to change in society what she felt to be wrong or immoral. Murphy strove to present herself as the typical Canadian-with-a-conscience. In 1922 the British magazine *National Life* wrote of Murphy and the pen name she had chosen for herself, Janey Canuck:

> ... to assume as her own the name of her country, to identify herself with half a continent, might seem at first an over-bold and vain-glorious thing to do ... sanction for it the fact that Mrs. Murphy approximates the typical Canadian more closely than anyone else whom I know ...[5]

This was one of the predominant preconceptions about Murphy, especially in the United Kingdom. But the notion of her as an archetypical woman of early twentieth century Canada is perhaps overdrawn. Murphy was an actor of her era and very much a woman of her time. But she differed significantly from what may be classed the typical Canadian woman of this period. Indeed, Murphy's family background and her experiences, particularly those in London, coloured her perspective and engendered in her the need to regulate her society. This need, of course, manifested itself in a singular manner; initially involved in reform movements in a philanthropic manner, Murphy, as well as other reformers, began increasingly to recognize that good works were not an effective method of dealing with a society run amok as a result of uncontrolled economic development, increasing urbanization and the all too problematic challenge of immigration. The ineffectiveness of philanthropic reform methods became an increasing problem in the face of rising crime statistics and the continuation of a wholesale abandonment of traditional values and morals. Murphy began increasingly to believe that social control was the way to go, that reform was to be coercive because appeals to the moral, good side of society were not effecting changes. For Murphy, the most important vehicle for any change became the law because the law established a moral framework for society and she could, therefore, ensure society's reformation. This study is an attempt to examine the life of Emily Ferguson Murphy, one female social reformer in early twentieth century western Canada, within the context of that society.

The concept for a work of this type emerged from two areas: first, an examination of the material available on the life and times of Emily Murphy; and second, the study of the historical literature concerning social movements and the way in which the law

was used as a form of social control and reform. In the first instance, two biographies of Murphy currently exist. The first, by Byrne Hope Sanders, was written in 1945, and the second by Christine Mander, in 1981. Sanders' work is perhaps best known primarily because it was, for a significant time, the only available source of biographical information about the life of the first female Police Magistrate in the British Empire. Sanders' portrait of Murphy is almost a hagiography.[6] Indeed, Sanders was a school chum of both the Murphy daughters, Kathleen and Evelyn, and much of the information in the book, especially that concerning Murphy's early years, was likely gleaned first-hand from these women. As well, Sanders herself met Emily Murphy several times.

It becomes necessary, therefore, to examine the Sanders biography of Murphy and, in this way, provide a rationale for this study. Although Sanders used some of the material now available in the Emily Ferguson Murphy *Papers* in the City of Edmonton Archives, she relied largely on personal reminiscences to create a biography. Thus, much of the material in Sanders' biography is unique and there exists little in what is available of Murphy's papers to corroborate it. Sanders was able to discuss Murphy's life at home in great detail but one is never sure from whence the information has come. She was able, for example, to note Murphy's early religious training:

> It was from her mother too that Emily learned the Collects, the Rubrics and prayers, and even the Thirty-nine articles, from the Anglican Book of Prayer ...[7]

While the religious training of Ontario children in the late nineteenth century may well have been within the proper sphere of the women of the era, there is a strong element in Murphy's own writings which indicates that her father was also a critical influence in these formative years. Sanders herself points out that "young Emily's father was a man of definite opinions".[8] It is difficult to postulate that this man of strong opinions would not also, at least to some degree, influence the religious

training of the Murphy children. Therefore, the origin of much of what is included in Sanders' biography of Murphy is open to questioning since it cannot be substantiated.

But of greater importance, and certainly more in the vein of books written in the 1940s, Sanders provides much of what can be termed unnecessary narrative. On Murphy's future, for example, Sanders stated:

> ... some day she was to join battle in provinces not yet a part of Canada, for problems still unstated; for freedom not yet glimpsed. Destiny was preparing her even then for its purposes in the West...[9]

Sanders' biography was not, however, intended to be scholarly and this is a critical point; it does not provide any analysis of Murphy's life nor does it truly attempt to examine or understand the stimuli which would have affected Murphy. In each phase of Murphy's life, and with every change in domicile, it is imperative that the context be identified and explored for its influences on Murphy; yet Sanders has not provided any such context. When Murphy moved to Edmonton, all Sanders noted of the city was that:

> Emily found herself now, in the beginnings of her new life, in d settlement which was the pattern of all Western communities at the turn of the century ... stiff and ugly, the false fronts on the buildings of the main street reared blind windows over the emptiness behind ...[10]

Any examination of the life of an individual requires more than a cursory review of the society within which that individual acted. Just as that person affected changes in her community, it is also true that the nature of Edmonton in the early part of the twentieth century affected Murphy and her choice of crusades. By ignoring the importance of context, therefore, Sanders provided an extremely incomplete picture.

Having made the point, however, it should be conceded that the biography does provide material on Murphy's early life which does not exist elsewhere. Leaving aside the unnecessary musings about the subject, one may glean much of Murphy's

life, especially the early years of her marriage to Arthur Murphy. Many of the trials which accompanied marriage for women in the early twentieth century, although they were not specifically enunciated by Murphy in her own writings, were perceptively noted by Sanders. The illness of "the Padre" and how it affected Emily, as well as the trauma she must have suffered when her youngest daughter, Doris, died, for example, are subjects which appear nowhere in the Murphy papers.

The second study of Emily Murphy is a fairly recent one and also requires some examination. It was penned by Christine Mander, an author who writes popular histories for a large audience, but primarily for those with only a superficial interest in historical subjects. While not an exhaustive study, and certainly not a scholarly one, the Mander biography is interesting because, as Sanders before her, Mander gained access to many of Murphy's personal journals through connections with Murphy's niece, Maude Murphy. Therefore, Mander provides many tidbits about Murphy's personal thoughts and her early life although she does not cite her sources or provide any context. Mander has taken a great deal of material from the published works of Emily Murphy and has provided a narrative which is largely a running compilation of quotations that are far more interesting in their original and certainly of more historical value. In short, we do not learn much that is new in this source, but we are able to gain a greater understanding of some of Murphy's personal thoughts about events or people that would otherwise not be available.

The two biographies of Murphy aptly illustrate "the great women of the past" theme of historical enquiry. This study challenges that approach by providing not only an analysis of the way in which reformers changed their society, but also, the way in which the actors in this historical drama responded. As Sylvia Van Kirk has pointed out, a feminist perspective of the study of history requires that:

> ...the lives of women in the past must be examined and evaluated in the context of the times in which they lived... the historian has a particular responsibility to delineate as specifically as possible the chronology of the significant shifts in structures and attitudes which allow for change in women's lives...[11]

These shifts, changes and progressions of attitude are at least as important as the women themselves if only because they assist in the understanding of the larger society. So often, in the study of social history, it is what is perceived, rather than what is, that creates social movements and the need for reform.

The second area of research for this thesis was the literature concerning the use of the criminal law as a method of coercive social reform. Studies of the effects of the applications of the criminal law on the lives of women have only recently begun to emerge. Most of the literature about women and the law has concentrated on the themes that are traditionally associated with studies in social history, and women have provided the focus for the study of concepts such as marriage, the family and morality primarily as it was revealed through prostitution. The works of Constance Backhouse (which provide the framework for this work) stress the discrimination against women inherent in nineteenth century prostitution law.[12] Other important sources include Angus McLaren's study of venereal disease and birth control; Estelle Freedman's work on penal institutions and prison reform in the United States; and James Snell's research on the legal regulation of nuptiality. These have created a much larger matrix within which the study of women may be conducted.[13]

Increasingly women are being examined as actors rather than objects acted upon: this thesis is a small contribution to this area of women's history. In examining the life of Judge Emily Murphy as both a legal actor able to make her views known and as a social reformer, with all the cultural baggage borne by those who attempted to ameliorate society's ills, a very broad understanding of life for a woman of the reforming spirit will emerge. Moreover, this study will provide a deeper understanding of the way in which the application of the criminal law and other pertinent statutes,

such as the Insanity Laws, affected a portion of late nineteenth and early twentieth century Canadian women, thus enlarging our knowledge of legal history as well.

Necessarily, this thesis relies heavily on the papers left in the City of Edmonton Archives by the estate of Emily Murphy. They are divided into the Police Magistrate's Notebook, several boxes of files that contain correspondence both to and from her, and four very large scrapbooks wherein are collected almost all articles written by or about her and any that she found to be of interest. Within her papers are many very interesting and historically important documents. The Police Magistrate's Notebook was of particular importance because it provided not only the charges and fines against those women (and some men) who appeared before Murphy, but it provided the invaluable information of what evidence was used and, very often, Murphy's own personal judgements about the character, dress, or demeanour of the defendants. Consequently it provides some insights into Murphy's views about the relationship between the law and women, and then to the emerging society in Edmonton.

It is critical to provide the context within which the actors moved. In Chapter 2 there is an examination of Murphy's family background, her upbringing, and the social movements of her childhood in order to furnish an understanding of the environment which provided the ideas and concepts that Murphy would later use and exhibit in her agitation for social reform and, more important, in her court room. The next two chapters focus on the general movement for social reform in the post-1916 period, and many of Murphy's writings on subjects of concern both to herself and to other western Canadian reformers are utilized. As well, some context as to the nature and the progress of these reform sentiments is included. The next chapter is concerned primarily with Murphy as a judge and examines the criminal cases under the Acts involving women and, to a certain extent children, as well as those cases involving insanity. Murphy had no formal legal training, yet she was appointed a Police

Magistrate for the Province of Alberta and charged with adjudicating cases in which women and children were involved. For the most part, the only surviving evidence, that of Police Magistrate's Notebook #2, was used in this section, with corollary information obtained from other sources. Of all the cases upon which she pronounced judgement, the three most frequent were liquor offences, those presented by the Insanity Law, and offences tried under the auspices of the vagrancy laws. An examination of these crimes yields an interesting introduction to society's general feelings about the nature and depth of these problems, and what could be done to decrease their incidence or ameliorate the suffering caused by them. As R.C. Macleod has noted, this was an age "in which people believed strongly that positive social goals could be achieved by negative means, that is, by prohibiting certain kinds of behaviour".[14] But, even more important, this examination yields an understanding of the position of women with respect to the law. What emerges, then, is an examination of the position of Emily Murphy with respect to the larger issues of moral reform, public health, and the law.

There is a tendency in the study of the history of women to blame our historical sisters for their lack of a contemporary feminist perspective. In this context, feminism would be understood to be asserting female autonomy and minimizing dependence on males. Many historians have asserted that this is the failure of early twentieth century women reformers. Carol Bacchi argues that most reform-minded women were unable to divorce themselves from the belief that moral reform would effect the changes necessary to reshape Canadian society.[15] But

> ...the role that maternal feminists were trying to carve out for themselves was not nearly so "traditional", in the context of its time... Women reformers were definitely not happy with the patriarchal social relations befween the sexes which characterized the nineteenth century family. Their campaigns to improve the legal status of wives and mothers (which resulted in a considerable body of legislation), and even their campaigns for temperance and social purity, offered a new challenge to male dominance...[16]

Using the concept that the nature of reform sentiment was centred around a new and different, perhaps even feminist, idea about the relations between women and men, it is evident that one must understand the constraints of the period, while at the same time, providing a means for study in an altogether new light. The result may be a more realistic picture than some feminist historians would have us believe. Essentially, maternal feminists like Emily Murphy tried "to impress upon men, by law if necessary, their responsibility for providing economic maintenance"[17], even if this was not a priority for themselves. They were, after all, wives and mothers and to this end Murphy's measures were certainly not unique because she felt that her goals centred around the maintenance of the family, both economically and socially. It is within this context of reform that the thesis will examine the career of Emily Murphy.

Murphy is often lumped into the larger category of the group of reformers of the late nineteenth and early twentieth century known as maternal feminists, who were defined by the Cult of True Womanhood that emerged from the early 1800s. As Randi Warne has posited, maternal feminism is:

> ...generally understood to refer to the patriarchal conservative view of a dual-nature humanity, as articulated by women. Fundamental biological and ontological differences between the sexes are assumed, but the value of those traditional qualities shifts so that in maternal feminism traditional female values are accorded higher status than their male counterparts... It is a "special nature" view of women which holds that the public realm needs to be morally "purified" and transformed by women's presence, hence the campaigns for suffrage, temperance, etc...[18]

Murphy certainly may be said to have shared the predominant traits of these early

feminists. And although they challenged the traditional sense of male/female gender relationships in some ways, it has been suggested that they were not really *feminists* because they were not seeking absolute autonomy.[19] The nature of the social relations between the sexes in this period precluded a revolutionary demand for economic and social independence; the reformers, therefore, found a way in which they could effect change without an attendant loss of their own newly emerging sense of power, or what has been referred to as maternal feminism. But perhaps, as has been suggested by other historians of women, the traditional definition of maternal feminism must be expanded and altered to reflect what Warne has called their "profound challenge to the androcentric world". So-called maternal feminists were, Warne explains:

> ...constrained by a prejudicial political environment, they used the dominant public language available to them and stood it on its head. They called the public sphere to be accountable to women's experience not as it sought to mimic men's, but women's specific traditional experience. And whatever their rhetoric, they were calling for a world within which women would be allowed to make their own choices about their lives.[20]

And although Murphy seemed to reflect many of the same sentiments of these early feminists, her experiences in social reform and her background of Anglicanism and Toryism require a more complex framework. For this reason, it appears that the framework of social reform is a more adequate conceptual tool for the examination of Emily Murphy and her life.

NOTES - CHAPTER 1

1. See articles of 27 and 28 October 1933 in: the Edmonton Journal; The Guardian of Charlottetown, Prince Edward Island; The Lethbridge Herald; The Herald of Alliston, Alberta; the Regina Leader-Post; the Amherst News of Amherst, Nova Scotia; the Nanaimo Free Press; the Evening Tribune of Welland, Ontario; the Winnipeg Free Press; The St. Catharines Standard; the Vancouver Sun; the Chronicle of Halifax, Nova Scotia.

2. "Janey Canuck a Well Known and Much Loved Canadian", Niagara Falls Review, 28 October 1933; "Canada's Loss", The Era, Newmarket, Ontario, 3 November 1933; and the Times-Globe, St. John, New Brunswick, 28 October 1933.

3. See The Daily Mirror, 28 October 1933, London, England; see also The Childrens Newspaper, 18 November 1933, London, England.

4. R.G. Moyles and Doug Owram. Imperial Dreams and Colonial Realities. Toronto: University of Toronto Press, 1988, page 227.

5. Byrne Hope Sanders. Emily Murphy Crusader. Toronto: Macmillan Ltd., 1945, page 11.

6. Sanders describes Murphy using a very biased set of criteria. In her book, Sanders states of Murphy, "her mind developed impressive proportions through her own avidity for knowledge and understanding." (page 9). This sort of editorial verbosity smacks of sycophancy and does not really add anything to the narrative. As well, these perceptions are based in speculation and are impossible to prove.

7. Quoted in Sanders, page 9.

8. Sanders, page 19.

9. Sanders, page 22.

10. Sanders, page 80.

11. Sylvia Van Kirk as quoted in Ursula Martius Franklin. Knowledge Reconsidered: A Feminist Overview. Ottawa: Institute for the Advancement of Women, 1984, page 51.

12. See Constance B. Backhouse, "Nineteenth-Century Canadian Prostitution Law Reflection of a Discriminatory Society" in Histoire sociale/Social History, Volume XVIII, No. 36, 1986; "Desperate Women and Compassionate Courts: Infanticide in Nineteenth Century Canada," Unpublished draft copy, 1983; "Involuntary Motherhood: Abortion, Birth Control and the Law in Nineteenth Century Canada," Unpublished draft copy, 1983; "Nineteenth Century Canadian Divorce Law: Shoring up the Patriarchal Family," Unpublished draft copy, 1983.

13. All these studies are newly emerging ones that centre around the law and its effect on the lives of women in especially Canadian but also American social history. See Angus McLaren and Arlene Tigar McLaren, The Bedroom and the State: The Changing Practices and Politics of Contraception and Abortion in Canada, 1880-1980, Toronto: McClelland and Stewart Limited, 1986; Estelle B. Freedman, Their Sisters' Keepers: Women's Prison Reform in America, 1830-1930, Ann Arbor, Michigan: University of Michigan Press, 1981; James G. Snell and Cynthia Comacchio Abeele,"Regulating Nuptiality: Restricting Access to Marriage in Early Twentieth-Century English-Speaking Canada" in the Canadian Historical Review, Volume LXIX, No. 4, 1988; James G. Snell, "The White Life for Two: The Defense of Marriage and Sexual Morality in Canada, 1890 - 1914" in Histoire sociale/Social History, Vol, XVI, No. 31 (May 1983).

14. R. C. Macleod. "The Shaping of Canadian Criminal Law, 1892 to 1902" in the Canadian Historical Association Historical Papers, 1978.

15. Carol Lee Bacchi. Liberation Deferred? The Ideas of the English-Canadian Suffragists, 1877-1918. Toronto: University of Toronto Press, 1983.

16. Van Kirk in Franklin, Knowledge Reconsidered, page 51.

17. Van Kirk in Franklin, page 52.

18. Randi Warne. "Maternal Feminism: A Useful Category for Examining Women's Past?" in Nola Erhardt and Pat Leginsky (eds) The Proceedings of the Second Annual Feminist Research Forum. Published by the Women's Program and Resource Centre, University of Alberta, 1989, page 17.

19. See especially Dolores Hayden, The Grand Domestic Revolution, Cambridge, Massachusetts: The MIT Press, 1983; Carroll Smith-Rosenberg, Disorderly Conduct: Visions of Gender in Victorian America, New York: Alfred A. Knopf, 1985; Nancy F. Cott, The Grounding of Modern Feminism, New Haven: Yale University Press, 1987; and Mariana Valverde, The Age of Light, Soap and Water, Toronto: McClelland and Stewart Inc., 1991. For an interesting analysis of the need to reject historical parochialism with respect to the study of feminism, see Judith Allen, "Contextualising Late-Nineteenth-Century Feminism: Problems and Comparisons", in the Journal of the Canadian Historical Association, Victoria, British Columbia, Volume 1, pages 17 through 37, 1990.

20. Randi Warne in The Proceedings, page 19.

CHAPTER 2

In order to understand the complexity of Murphy's particular brand of social reform and further, the intricacy of her character, it is necessary to examine her early life. Of all experiences that colour thoughts and belief systems, childhood perceptions are perhaps the most influential in both shaping attitudes about society, and more important, the individual's place in that society. Therefore, an examination of Murphy's early family life and schooling will provide the backdrop to the later discussion of Murphy's views of social reform and her position as Police Magistrate.

Emily Murphy was born in Cookstown, Ontario on 14 March 1868. Although detailed statistics are not available for the period before 1881, in that year the census indicated that the district of Simcoe North, of which Cookstown was a part, had something less than 9,000 families, the vast majority of whom were either English or Irish. The vast majority of the population worshipped primarily in the Methodist, Presbyterian and Anglican churches. Almost all the inhabitants were farmers or involved in some way with the rural community, as land agents or farm labourers or providing the services required by the local population. In sum, this was a typical Anglo-Protestant farming district which was characteristic of rural Ontario in this period.[1]

Murphy's antecedents were primarily Irish-Protestant immigrants and they were part of the first waves of Irish immigration that arrived between 1828 and 1832. Their exclusion by mainstream British North American society created an immigrant identity with a clearly expressed sense of grievance.[2] Murphy's own grandfather, Ogle Gowan, organized the Orange Order in Upper Canada to give the Protestant Irish a sense of the "consciousness of power". He wrote:

> We are told that we Irish are a restless and turbulent people -- that it requires numerous troops to keep us down at home... Let them create the same causes here and by their intolerance, they are doing it, and the same will follow... Let us no longer be hewers of wood and drawers of water to a faction whose only aim is to oppress us... We have played second fiddle long enough. The time had come when we must assume a more manly front. [3]

The Orange Order, as a socio-politico-religious society held as its aims the defence of Protestantism, and in Upper Canada, the twinned insistence on loyalty to the British Constitution and support for the imperial connection. [4]

Initially, the Orange Order was an Irish creation, but as Gowan posited:

> ...Scots and Irish did not become English if they settled in England, and consequently, did not become Canadian in Canada. All those living under the British Constitution, including Canadians, were British -- the common ground upon which all could unite without a sacrifice of origin...[5]

As the Order grew in importance and in membership, however, it provided both immigrant and native, Irish and non-Irish Protestants a familiar anchor and a source of fraternal aid.[6]

The apogee of Orange influence in Canada was most evident during the year's of Emily's childhood and early youth. The fondest memory of Emily's recollections of her early childhood involve the Orange Order Processions and her immense pride in her Anglo-Protestant origins.[7] Orange sentiment probably influenced the young Emily's perceptions of upstanding and respectable society and her moral and social beliefs about how that society should function.[8] As well, Emily's intense sense of belonging to such a distinguished lineage may also have contributed to her belief that these values were correct.

Another element of Old Ontario's political culture also shaped Murphy's development. The conservatism embraced in the Ferguson household presupposed an organic and hierarchical social order that encompassed a deep respect for law and order.[9] And for young Emily, a belief in the importance of the law and a

preference for authority became deeply-embedded principles in her character. Necessarily, Murphy would later contend, the inculcation of the ideal of respect for authority began in the home:

> ...The Negative (family) consists of disconnected persons -- a family in terms of mere acquaintanceship -- with no strength but what each person possesses in himself. There is little or no authority, and the children drift into the world untaught and undisciplined...[10]

Murphy also espoused the issue of authority and a chain-of-command mentality toward the running of a household and the position of children within it. She wrote:

> Never before in the ages has the rein of domestic government hung so loosely. In our day, the slogan "Liberty, Equality and Fraternity" is more applicable to the home than anyplace else... the children of Canada run everything but the lawn mower and carpet sweeper.[11]

In the Ferguson home, however, the children did not run anything, much less their parents. Isaac Ferguson and his wife established a spacious well kept home for their children and raised them in the affluence afforded by their respectable rural lifestyle.[12] Murphy's father and mother ensured that their children would be well appointed, well read, and would learn the fine art of penmanship. As well, they ensured that in all things the children, both male and female, would be treated in a like manner.

More important, the heritage of the Ferguson clan shaped the development of young Emily's character. Her grandfather's cousin, Sir James Gowan was a Supreme Court Judge and later became a Senator. Gowan (1815 - 1899) was born in Wexford, Ireland and emigrated to the Canadas in 1832. At the conclusion of his education he accepted a position as a deputy in the office of the Solicitor-General for Upper Canada, and in 1839 was called to the bar. So well-regarded was he, however, that by the age of twenty-seven, he was appointed to the office of judge of the judicial district of Simcoe, the youngest man ever to occupy that position. Gowan was known as a legal reformer and of the many products of his long career, perhaps the

most interesting was his involvement as the principal proponent and Chairman of the Special Committee on Divorce; this duty required the rewriting of the Divorce Laws for Canada which, until that time, were solely based on parliamentary consent originating in the Senate.[13] Gowan is perhaps best known for his work on the legal improvements and eventual consolidation of the 1892 Criminal Code for Canada. Sir James Gowan was a frequent visitor to the Ferguson household and on at least one occasion, the family also welcomed Prime Minister Sir John A. Macdonald, Sir Charles Tupper and Mr. D'Alton McCarthy, who happened to stay at the Fergusons while they were attending a political meeting in the area.[14] It is unclear how much of Emily's later Conservatism and her interest in the law had its beginnings with the people with whom she spent a good part of her early life, since she does not leave anything explicit in this regard. It is, however, very likely that many years later, at least some of what she had been exposed to in childhood would leave its mark when Emily took the bench.

Another important influence on her life was Murphy's religious upbringing - the Fergusons belonged to the Church of England, the denomination of Ontario's "gentility".[15] The choice of a religious denomination provided important clues about the lives of its adherents:

> Membership in a particular denomination ranked high as a badge of personal identity. To know a man's religious affiliation was to have an important clue to the politics he professed, the school system he supported, the moral taboos he observed, and even the newspapers he read.[16]

At least initially, the Anglican Church attempted to be the closest connection between the social and economic stability of an emerging Canadian society, by disseminating its conservative principles throughout. As the shifts of allegiances unfolded and other religious denominations began to appear, and began to challenge the privileged place held by the Church of England, the demand for the

church to demonstrate itself as a linchpin of the social and political order connecting the state and the church in temporal world, both politically and socially, became undermined.

> To love and venerate order was the first commandment of the religious and social teachings... Order was an attribute of God: did not the structure of the world reveal so clearly the handiwork of a rational intelligence? Order was also the measure of a proper and virtuous life. Since order and hierarchy were inherent in God's creation, happiness could only be attained by accepting the same principles in society. Freedom and liberty grew out of social order; without order there could be no society and therefore no freedom.[17]

In its initial stages in Upper Canadian society, the church asserted its view of God as a hierarchical one, whereby the institution provided the adherent the means to reach spirituality. The desire on the part of the High Church to maintain its catholic outlook led to dissension within the church and calls for the Church to become a social institution became difficult to ignore. What developed, then, were two competing religious factions, those who would see the Church of England be a leader in the structuring of Canadian society, later known as the evangelicals, and those who were content to retreat into the world of catholic spirituality. Young Emily was well taught in both the spiritual beliefs of the Evangelical wing of the Anglican Church and Murphy would later exhibit a practical application of her faith to everyday life. The village of Cookstown did not have an Anglican church during Emily's younger years, and so the Fergusons attended Sunday services at the local Methodist Church although they continued to worship as a family in the typical Anglican way, adhering to the Book of Common Prayer.[18]

As was the custom in families such as the Fergusons, Emily was sent to boarding school to complete her education. The Bishop Strachan School of Toronto, to which she was sent in 1882 at the age of 14, was the "right" kind of school; there she met the daughters of bankers, the clergy, and professionals. The curriculum at Bishop

Strachan was typical of most schools for girls of the time: Emily Ferguson's report card for 1886 shows that she took French, instrumental music and arithmetic, which were taught to all girls of this class in the late nineteenth century; she also had classes in catechism, scripture and orthography. She was Head of the Class and excelled in Roman (now Classics).[19] Although Sanders indicated that Murphy apparently did not do exceptionally well in school she did become Head of the Fifth and Sixth Forms and won the Governor-General's Medal for Proficiency in her final year at Bishop Strachan.[20]

Education for the daughters of the well-to-do, like Emily Ferguson, was designed to prepare these young women for the lives that they were expected to lead after they married, and all young ladies were expected to marry. The Queen's College *Journal* outlined the future for "Sweet Girl Graduates":

> The place woman fills in society, and the peculiarities of her nature, must determine what is the proper quality of her culture... proper sphere of action is the domestic circle. Their highest duties they owe to the family, which also calls forth their most shining virtues. Therefore her education should be practical, fitting her to govern her household with wisdom and prudence. For her own sake her mind should be cultivated, but her mental culture should not be what is regarded as distinctively intellectual. It should be governed with reference to elegance as well as strength, to the development of the tastes and affections as well as the mere reasoning faculties... may the day be far distant when Canadian Lady Jane Greys shall fill up the pauses in the dance with quotations from Plotinus, and spice their drawing-room conversation with discussions on the differential calculus or transcendental idealism.[21]

Women of late Victorian Canada were assumed to be preparing, in their lives at school, for their ultimate destiny as wives and mothers. They were expected to prepare a hearth and home for their husbands and create a solace from the cares of the external world. To their children they were expected to impart a pure and noble virtue, since they were naturally purer and more virtuous than men. To venture into the world of commerce or the professions was not expected, and few women

sought to do so in other than exceptional circumstances.[22]

Emily's life continued to follow the pattern expected from someone of her background. She married the Reverend Arthur Murphy, an Anglican minister, in 1887 and shortly thereafter moved to a small village in south-western Ontario called Forest. The duties expected of her as the rector's wife involved a variety of mundane, but necessary, chores. None, however, was as important as serving as the model of the village.

> I found that, as a bride of nineteen, I had to take Bible classes, be president of the Missionary Society, play the organ, speak at meetings, organize the entertainments and bazaars. I was, however, acquiring a stabilizing that fitted me for a half other dozen duties.[23]

Murphy appears to have rebelled, even if only superficially, against the code of conduct expected of the wife of an Anglican minister. She was often playful when decorum was required and this caused a rift in her marriage when, at one point, she laughed out loud during a church service.[24] She left for Cookstown and returned after three weeks so we do not know if she even considered the possibility of leaving Arthur and her role as parson's wife.

Arthur Murphy was appointed the Mission Preacher for the Huron Diocese and the next ten years of their life were spent in various towns and villages scattered about Ontario. In the early months of her marriage she accompanied her husband as he travelled from parish to parish, but after the birth of her first daughter, eleven months after the marriage, she became less resolute about travelling. Instead, she collated enormous leather-bound ledgers filled with the quotations and references used in the sermons for which Arthur Murphy was quickly becoming famous. She devoted hundreds of hours to memorizing quotations and developing her memory.[25]

This is the only part of her life for which Murphy left no records of her thoughts or beliefs.[26] What evidence there is comes primarily from the Sanders and Mander biographies and indicates that this period was a critical one; she had lost what she

termed her "aptitude for God" or her faith.[27] Since Murphy's crisis of faith may well have been a part of a larger theological crisis, it becomes necessary to examine it in greater detail.

The late nineteenth century revealed the growing need for many Canadians to order all things within their purview. This was reflected by an increasing interest in and understanding of science. Science was then not remote, forbidding and abstruse; rather to the educated person it was a fashionable and respectable pursuit.[28] Indeed it was taken for granted that a familiarity with at least some level of natural science and a sensitivity to the surroundings formed a part of the intellectual equipment of every Victorian Canadian.[29] Although this recognition of science manifested itself in the collection of natural facts and specimens, it increasingly came to be regarded as the means to understand man's place in the world. As Carl Berger suggests: "Victorians saw in nature what they were instructed to see -- the work of God."[30]

The debate between science and religion had really begun with the publication of Charles Darwin's *On the Origin of Species* in 1859. While Darwin's basic postulation, that species were evolved from those that had come before them, and that species survived or did not on the basis of their ability to adapt through a process of natural selection, was straightforward, it stimulated bitter debate about the creation of man and his place within the natural world. Coupled with the arguments in publications such as David Strauss' *Life of Jesus* (1835) and Karl Marx' work in 1848, the trend toward biblical criticism and skepticism about traditional theology was becoming increasingly more difficult to ignore.

> Newspapers made Canadians aware of such dangerous new thoughts, but press and pulpit alike were careful to warn against them.[31]

What evolved, then, was something derived from these ideas but also invoking an element of the well-established British tradition of natural theology; it became known

as Darwinianism. Its chief claim was that there "existed an overall design in nature, a rank and order in the chain of life, and a regularity in the operation of laws, all of which were evidence of a transcendent guiding intelligence."[32] Increasingly, attempts were made to present such views in some understandable and useful form. In *Natural Law in the Spiritual World* (1888), Dr. Henry Drummond, for example, attempted to harmonize Christianity and evolution by developing a general doctrine of teleological progress.[33] Thus:

> ...the religious crisis provoked by Darwinian science and historical criticism of the Bible led religious people to attempt to salvage Christianity by transforming it into an essentially social religion. The orthodox Christian preoccupation with man's salvation was gradually replaced by a concern with a social salvation... by the end of the Victorian age the foundations of religious orthodoxy had been shaken. And if the 'sacred' and the 'secular' were no longer distinct then perhaps religion, rather than being the opiate of the masses, would become a recipe for social regeneration...[34]

By the 1880s, then, the focus of the Presbyterian and Methodist denominations had shifted from theology to social reform. This shift had a tremendous impact on Canadian churches and produced a serious division among the Anglicans especially reinforcing in the Church of England the split between High and Low Church parties. The strict observance of liturgical worship stressed by the old High Tory Bishop of Toronto, John Strachan, was increasingly challenged by a growing evangelical movement in the church. The Irish Anglicans, especially, imparted a pronounced evangelical tint to the Anglicanism of the western part of the province[35] and this was of critical importance for the Murphys. While the High Church became increasingly inward looking and isolated,[36] concerned only with maintaining its adherents, Low Church Anglicans did "accept new ideas and programs of social and economic reform".[37]

As rural Ontario began to change during these "critical years" of the late nineteenth century because of growing demographic and economic crises, people were

growing more aware of the unsettling problems besetting their society. While proper observance of the Lord's Day was one response to the new threats to traditional rural values, more important was the war against alcohol. Increasingly, after the mid-1870s, some reform-minded Anglicans were prepared to join other Ontarians in expressing their concern about the abuse of alcohol. This issue exacerbated divisions within the Church of England. At meetings conducted in various Anglican dioceses, there was general agreement on the evils inherent in the intemperate use of alcohol; but many differences arose over the methods that would be useful in improving conditions caused by this problem.[38] On the one side were the reform-minded who believed the Church of England had a vital part to play in the day-to-day amelioration of vice caused by intemperance, but for the most part, they were a small group. As a result,

> ... the Church of England...played an insignificant part in movements of social reform, particularly those movements pledged to temperance...this apathy on matters of broad social concern was due partly to the Church of England's innate conservatism, and partly to the belief of high churchmen that the church would sully its catholic and apostolic character by cooperating with other religious groups...[39]

While there is little evidence that the Murphys participated actively in these debates, it is apparent that Emily became aware of the growing social problems in late nineteenth century Ontario. Moving from parish to parish introduced her to new groups, like the black community in Chatham, and forced her to confront new realities shaped by urban growth and industrial development.[40]

> She began to realize that there was a world far removed from the comfortable cocoon to which she was accustomed. In town after town she observed the terrible conditions under which the poor lived: crowded homes, no education, no jobs, too many children, and no prospects for a stable life... Emily met and talked with the poor...[41]

The Murphys own situation had changed, too. Arthur had no steady income and the livelihood of the family became dependent on collections obtained at meetings. Their security was drastically altered and this meant a complete readjustment for

Emily.[42] With no one to share her feelings, as Arthur was completely engrossed in preaching, Emily turned to writing.[43] While writing was considered to be a proper avocation for a parson's wife, it may also have been the means through which Murphy could address social problems and offer solutions. In addition, there is little doubt that Murphy was also able to contribute financially to the family with her writing. Much later in her life, Murphy would outline four aspects of her religious life:

> The youthful and fervid
> The academic and doubting
> The maternal and social
> The older and peaceful.[44]

The events of Murphy's life correspond quite well with this four-tiered analysis of her own spirituality. It seems evident, therefore, that she had entered her maternal and social phase.

The birth of her first daughter, perhaps more than any other event, was to form the basis of a significant part of her character. It reinforced her maternal religious faith, which she later described:

> To me, the mother and child became the central part of Christianity and I believed... that their symbol was an eternal one -- the symbol of life itself.[45]

To most of the members of the society of late nineteenth century Canada, the proper moral and physical care of the young was an obligation to God.[46] Increasingly the church and society took an active interest in preserving the ideals of family life and a large part of this involved maintaining a strong family unit. It was the duty of the child to learn and to obey, and it was the obligation of the mother patiently to superintend and instruct.[47] This view reflected the proper role for women, as revealed by the concept of true womanhood, and produced the social response known as maternal feminism. This was the reaction of many middle class women to their way of life in the new society of the late nineteenth century. At the centre of maternal feminism was the notion that a return to the traditional social order could be best

accomplished if women, in their natural roles as wives and mothers, were allowed to extend their natural moral superiority into the larger society in order to effect "social spring cleaning".[48] In many ways, then, Murphy's insistence on the importance of motherhood can be understood within the context of the maternal feminism which shaped the larger social reform movement. Many years later Murphy recalled:

> Although barely 20 years of age when I became a mother, I can see in looking back across the years that the finest joys of life came with my children...[49]

Moreover, her dedication to her children was fundamental and lifelong. In later years, Murphy was icily critical of those who spoke of the "hardships of rearing children"; she felt that these were largely imagined since motherhood was not simply a job but rather the first and foremost duty of every woman.[50] She felt no gratitude was due a mother, because she would, quite simply, only be doing her duty:

> I even find it hard to become enraptured over "Mother's Day" in that the strain running through most of the editorials is one of pity and commiseration (sic) for the apparently sad and serious woman who has reared a family...[51]

And, of the "sacrifices" and tears of a mother, Murphy stated: "I have never been able to sacrifice myself for my children. The compensation has been a hundredfold, and this is really quite a good rate of interest".[52]

But what Murphy failed perhaps to realize and certainly to mention was the fact that a small private income enabled her family to keep both a general maid and a nursemaid before they began Arthur's mission through the small towns of Ontario in the Huron Diocese.[53] This made it possible for for her to take up leisure activities such as oil painting while still maintaining a clean household and well cared-for children. Blessed as she was with lack of want, it is small wonder that "mothership" was, for her, the natural duty of woman, and Murphy's intolerance for women who complained of the tribulations and trials of child rearing stemmed from her own comparatively easy life.

Emily Murphy's views were also shaped by her experiences in England, where Arthur was called on a mission in 1898. She had already been freed of the constraints and the "critical eyes watching her every move" during the previous phase of moving from parish to parish in Ontario.[54] The move to Britain would be even more important to her for two reasons: first, Emily would experience more freedom away from the highly conservative society of rural Ontario, which "meant a new delight for her".[55] Second, and more important, however, she would see real poverty, misery and squalor firsthand in a manner and intensity with which she was completely unaccustomed. In spite of the social problems Murphy had seen during her sojourn in the Huron Diocese, she had never before witnessed what she was about to see in England and found herself completely unprepared.

In July 1898, the Murphys sailed for London, England. While Emily spent a great deal of her time, at least initially, meandering among the great historic sites -- the various churches, the famous castles and the British Museum -- she also insisted on accompanying her husband on visits to the various urban slums. The England of the late nineteenth century was a country in social turmoil. The twin forces of industrialization and urbanization had intensified problems related to poverty, overcrowding, poor wages, and intemperance, and these conditions were perceived to be tearing apart the very fabric of society. Factory work especially was thought to be destroying the family, "eating away like a worm at the very foundations of all social order."[56] The various critics of the new society asserted that the consequences of industrialization were "deplorable, immoral, unnatural, and subversive..."

> The sight of women and girls working in the mills, as well as children, was found particularly shocking and even offensive.[57]

Many organizations became involved in the social regeneration of society, in an attempt to stay the deterioration of morality and values. The churches, most notably,

seemed to be more willing to aid in the amelioration of conditions for the underprivileged and those caught in the web of proletarian work. Those who did involve themselves were vocal about what they saw:

> Victorian clergy, doctors or sanitary reformers who peeped in through the window at working-class home-life almost invariably saw something nasty, brutish, disorderly and objectionable. They saw drunken fathers belting their children for petty or imaginary offences; they saw distraught mothers quieting hungry children with Godfrey's Cordial (an opiate); they saw skinny, stunted, undernourished children with verminous clothes and their hair full of lice; they saw children who did not know how to use a fork and who had never seen a toothbrush; they saw gangs in the streets, hurling rude insults at strangers...[58]

Very often, however, their solutions addressed the symptoms, not the causes of social problems; reforms, aimed as they were at personal salvation and morality, proved ineffective. As well, the largely unsystematic efforts of individuals and voluntary organizations, mainly inspired by paternalistic humanitarian motives, were the closest that the Victorians came to social services, even with reforms to the Poor Laws and with support for public education increasing over the period. The vast majority of reformers attributed the lot of the working-class poor to their inability to adhere to the strict moral code established by the middle class:

> The working classes were continuously berated by moral and social reformers for being the authors of their own miseries through the self-inflicted wounds of irrational and immoderate expenditure on drink, when with prudent budgeting they could afford adequate supplies of bare necessities.[59]

For perhaps the first time, Murphy was face to face with these problems, and it was here that she would begin to define what she perceived to be the general malaise of society, and what could cure it. In her assessment of the London slums, Murphy was as judgmental as other middle class critics:

> This sin-cursed region has rightly been styled the "Borders of the Kingdom of Darkness" ... it is the garbage heap of the wealthiest city in the world, into which the refuse, offal and unsightly things are dumped out of sight.[60]

Murphy recognized immediately that the work of the Established Church in the amelioration of conditions of life for those living in the slums, work that concentrated on the redemption of these fallen people through religious teaching alone, was at best superficial; an introduction to Christ and the Bible was simply not enough for the unreached majority. The message of the Church of England, based as it was on the presupposition that man was inherently a sinner, found it natural to attribute all forms of social malaise to moral failure and therefore to seek cures by eliminating opportunities for vice.[61] The established procedures for assistance to the poor, in the form of Bible classes and the teaching of morality were not changing the face of poverty in the London slums.

While she was not able to identify a plan that would significantly alter economic and social conditions to the extent that the poor would be truly assisted, her comments are indicative of her own rising consciousness:

> Only those who give up their lives to the redemption of this place, know of the cruelty and hunger that madden the galley-slaves of greed; know how the rich grind the face of the poor... these are the "unreached majority". Some people quickly kill their decrepit and starveling (sic) poor, but these English torture them in a slow and refined method...[62]

Murphy did, however, particularly admire the groups of Church workers who were active in these areas. What she respected most was their practicality, something the Anglican Church, due to its own prescriptions for ameliorative assistance and its inability to embrace fully any program of reform other than an educational one, was unable to condone. Indeed she remarked, "on the whole, the Church seems to handle the slums with dainty fingertips".[63] But other organizations, such as the Salvation Army and the Methodist Church, were more inclined to transform Christianity

into an essentially social religion. The Methodist Church ministered to the urban poor and preached not only temperance and morality but increasingly sought to banish social evil from the world at large: if true progress meant ultimately creating heaven on earth, then the church could consciously aim at the general improvement of all society.[64] The preoccupation with the salvation of the individual gradually gave way to concern for social salvation:

> By the end of the Victorian age the foundations of religious orthodoxy had been shaken. And if the 'sacred' and the 'secular' were no longer distinct then perhaps religion, rather than being the opiate of the masses, would become a recipe for social regeneration.[65]

Anglicans were slow to accept the premise of social regeneration, and Murphy became increasingly critical of this attitude. While Church workers who ministered to the poor offered moral uplifting through temperance and sabbatarianism, they offered little in the form of education and measures that would change the economic aspect of the poverty faced by many of those in the slums; she wrote:

> There is not much use in preaching to people whose spirits are deadened by hardships and starvation, and who are struggling to keep their footing in a quicksand. Some of them are crying ominously in the night. The working brutes in England's backyard are growling and it would not be strange if, one day, they broke their chains.[66]

The poverty and distress that she witnessed in the slums of England's larger cities revealed the underside of economic progress and reinforced her own self-doubts:

> The dark distress, ugliness and pain perplexed and hurt us. We were not so confident about our age after all.[67]

Murphy also began to see women in a different light as well. Upon her arrival in London, she remarked:

> Everywhere I noticed flashly-dressed women who are avowedly and unblushingly disreputable. Their sidelong glints and encouraging smirks to all male-comers are their offers of sale -- their allurements to sin...[68]

Her first impressions of English prostitutes were permeated by a sense of moral

judgement shaped by her Anglicanism; she believed that their sinfulness was a personal failing. These women were immoral and they had succumbed to temptation:

> This life with its vile wage must be a great temptation to kitchen drudges, who see only the fine clothes and not the sad finale.[69]

Thus, if the temptations of this immoral life were withdrawn, the seed of goodness could be planted in every individual and they would respond accordingly.

As Murphy travelled more widely, however, she began to seriously consider other reasons for the degraded condition of the slum-dwelling women. Like many other social reformers of her time Murphy slowly began to accept that these people were products of their environments. The social conditions in English cities pushed many poor women into prostitution; she wrote:

> ... the sexes pair like any beast of the field... who can wonder that it is otherwise, when so many girls have a history like this -- "the bastard of a harlot, born in a brothel, suckled on gin, and familiar, from earliest infancy, with all the bestialities of debauch, violated before she is twelve, and driven into the streets by her mother a year or two later...[70]

In Murphy's opinion, women wore the telling marks of their poverty and hopelessness more than men. Often at the mercy of unscrupulous employers and slum landlords, forced to work in almost any capacity in order to bring in what little money they earned, and often abandoned with children to care for as best they could, Murphy's statement is telling:

> One cannot fail to observe the numbers of women with bruised faces -- women who appear to have drained the draughts of poverty to their very lees. They are having their hell in this world, no matter what may be in store for them in future. Men are black beasts. One day science will teach women how the race can be propagated without their aid, and then we will sting the drones to death.[71]

What is of compelling interest in this statement is Murphy's assertion that it is man who is at the root of women's problems. She did not reject traditional attitudes about

proper spheres for women and men; she believed that the place of woman was to be in the home mothering children and creating for her husband a haven from the cares of the public world. The duty of man, therefore, was to provide his mate with the means to create and nurture that environment. The reality, however, was very often far from this ideal. Murphy herself began to recognize that the material and physical needs of women were at least as important as those of the spirit: "I have a clear and well-defined idea," she wrote later, "that women are not all soul; that they have a way of hungering after bread, even before they hunger after righteousness".[72]

With Arthur's mission in England completed by 1899, the Murphys returned to Canada and took up residence in Toronto. Emily had by this time published a book and, with this as a form of public introduction, she began to contribute articles to the *National Monthly of Canada* and eventually became the Women's Editor. Her duties necessarily required her to write articles dedicated to subjects of interest primarily to women. Murphy produced many articles on economy, fashion, manners and home decoration, subjects which she discussed with a certain amount of humour.[73] Unfortunately, Arthur contracted typhoid and, when he was unable to continue missionary work for the church, Emily became the sole breadwinner. When she later became the literary editor for this journal, she appears to have used her work as a means of gaining some kind of freedom from a depressing home life. The most important pressures on her were financial and, in order to alleviate them, she spent more and more time writing for and editing the magazine. In short, she had become the sole means of support for the household and, consequently, she spent a great deal less of her time caring for her home and family.[74] Arthur, in the meantime, had left his calling as an Anglican minster. There is no record of the reasons for his abandonment of the life he had chosen as a young man, but clearly he was burdened by the same religious doubts as his wife. Therefore, when their

youngest daughter contracted diphtheria and died, the Murphys decided that they needed a change of environment. They hearkened to the call of the West.

In the summer of 1903, the family packed their belongings and made the long trek west to a small unsurveyed timber limit in Swan River, Manitoba. Emily's life was busy yet simple. She kept house for her family, and she took care of the long line of lumberjacks who worked on the Murphy timber-limit. These domestic duties did not seem to hinder her continued writing. She reviewed, on average, twenty-one books per month for the Winnipeg *Tribune* and she also kept a diary. The new people and the new land absorbed her. The Murphys were surrounded by immigrants of wide and varying backgrounds, and very different customs - Germans, Ukrainians, Swedes, French, Icelanders and Doukhobors.[75] Her relations with her neighbours were cordial but cursory.

Perhaps to allay her boredom and partly because she saw the need, Emily Murphy became involved in local reform; her first community project was the establishment of a Victorian Order of Nurses hospital. It is not unusual that Emily, who had lost her youngest child to disease, would be at the forefront of a campaign to establish a hospital where pre- and post-natal care were available to all who had need of them. The die had been cast; the hospital became a reality and Emily Murphy had begun her career as a social reformer.

Arthur Murphy was becoming restless with his life in Swan River, however, and he felt the urge to move further westward. When he was able to convince Emily that a change was required, the Murphys again relocated; in 1907, they had become newly-arrived residents in the small city of Edmonton, Alberta. In the milieu created by the rapidly changing western Canadian society, she found herself increasingly involved in causes, and armed with her own preconceptions and a willingness to do her part, Emily Murphy plunged headlong into a new life of social reform.

Notes - Chapter 2

1. Census of Canada. 1880 - 1881. Ottawa: Maclean, Roger & Company, 1883. Volume I, Page 74; Volume II, pages 292 to 303; Volume III, pages 92 to 93, 208 to 209, 328 to 329.

2. Hereward Senior. "Ogle Gowan, Orangeism, and the Immigrant Question 1830 - 1833" in Ontario History (66) 1974, page 193.

3. Senior, pages 208, 193, and 194. See also Cecil J. Houston and William J. Smyth. The Sash Canada Wore: A Historical Geography of the Orange Order in Canada. Toronto: University of Toronto Press, 1980, page 22.

4. David Mills. The Idea of Loyalty in Upper Canada, 1784 - 1850. Kingston and Montreal: McGill - Queen's University Press, 1988, pages 8 and 87.

5. Senior, page 209.

6. Cecil J. Houston and William J. Smyth, The Sash Canada Wore, page 6.

7. Byrne Hope Sanders. Emily Murphy: Crusader. Toronto: The MacMillan Company of Canada Ltd., 1945, page 6.

8. Ogle Gowan minced no words when it came to the goals and aims of the Orange Order. In his book Orangeism: Its Origin and History (Toronto: Lovell and Gibson, 1859) Gowan wrote:

> ... (the order shall)...improve the intellectual tastes, and with the improvement, combine a knowledge of the Redeemer, and inculcate the precepts which are taught by Christianity, and man, as he advances in literary and scientific knowledge, will also advance in civilization, and be restored to a state of social and moral goodness, which was forfeited by the fall of his first parents...(page 5)

9. Charles Taylor. Radical Tories: The Conservative Tradition in Canada. Toronto: House of Anansi Press, Ltd., 1982, page 110.

10. Emily Ferguson Murphy. "Are Parents What They Used To Be?" Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 35, page 2.

11. Murphy, "Are Parents What They Used To Be?", page 4.

12. Sanders, pages 8-9.

13. W. Stewart Wallace (compiler). Dictionary of Canadian Biography. Toronto: The MacMillan Company, 1926, page 159.

14. Christine Mander. Emily Murphy: Rebel. Toronto: Simon & Pierre, 1985, page 20-21.

15. Curtis Fahey. "A Troubled Zion: The Anglican Experience in Upper Canada, 1791 - 1854." Unpublished Ph.D. Thesis, Ottawa: Carleton University, 1981, page 76.

16. John Webster Grant. The Church in the Canadian Era. Burlington, Ontario: Welch Publishing Company Ltd., 1988, page 7.

17. William Westfall. Two Worlds: The Protestant Culture of Nineteenth Century Ontario. Kingston and Montreal: McGill-Queen's University Press, 1989, page 86.

18. The Methodist preachings against playing cards and the consumption of alcoholic spirits evidently did not inhibit the Fergusons attendance at the Sunday gatherings of the Methodists. They continued to enjoy their games of Whist and to offer "cordials" to their guests as Mander indicates on page 17 of her book on Murphy. Grant has outlined the parameters of the existence of the Anglicans in an organized way in Canada in his book, The Church in the Canadian Era. As he outlines:

> Anglicans were widely, although thinly, distributed. In Protestant Irish settlements in the back countries, where they were especially strong, they belonged almost exclusively to the evangelical wing of the church. Although they adhered strictly to the Book of Common Prayer, their services were plain...(page 7).

19. "Report Card for Emily Ferguson, 1886" Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 2, File 49.

20. Mander, page 28.

21. Queen's College Journal, "Sweet Girl Graduates," Kingston, 16 December 1876.

22. See especially, The Proper Sphere. Ramsay Cook and Wendy Mitchinson (eds.) Toronto: Oxford University Press, 1976. In the Introduction to Chapter 3, for example, the editors state: "The attendance of women at universities, at an age when many educators felt they should be getting married, was a challenge to domestic sanctity. Moreover it was thought unwise, in the interest of maintaining morals, to have young women and young men in close proximity during the years of early adulthood."

23. Sanders, page 31.

24. Mander, page 30.

25. Murphy's excellence at Roman (Classics) likely suited her need for mental stimulation during the early years of her child rearing.

26. All sources consulted respecting her papers, most especially at the City of Edmonton Archives, have indicated that some of her most personal journals may not have been released to the public. Certainly her diaries were not.

27. Sanders, page 36 and Mander, page 35.

28. Carl Berger. Science , God and Nature in Victorian Canada. Toronto: University of Toronto Press, 1983, page xii.

29. Berger, page 8.

30. Berger, page 31.

31. Grant, The Church in the Canadian Era, page 65.

32. Berger, page 32.

33. Ramsay Cook. The Regenerators. Toronto: University of Toronto Press, 1983, page 15.

34. Cook, pages 4 and 25.

35. John Webster Grant. A Profusion of Spires: Religion in Nineteenth Century Ontario. Toronto: Province of Ontario, 1988, page 83.

36. Fahey, pages 389 and 391.

37. Edward Pulker. We Stand on Their Shoulders. Toronto: Anglican Book Centre, 1986, pages 13 and 14.

38. Pulker, page 29.

39. Fahey, page 390.

40. Cook, page 17.

41. Sanders, page 37.

42. Sanders, page 50.

43. Byrne Hope Sanders, Murphy's principal biographer, believes that it was an emotional distance from her husband that gave her the desire to begin writing her thoughts. Since Arthur Murphy appears to have been preoccupied, this explanation does have substance.

44. Sanders, page 35.

45. Sanders, page 37.

46. Neil Semple. "The Impact of Urbanization on the Methodist Church in Central Canada, 1854 -1884." Unpublished Ph.D. Thesis, Toronto: University of Toronto, 1979, page 272.

47. Semple, page 273.

48. Wayne Roberts. "Rocking the Cradle for the World: The New Woman and Maternal Feminism, Toronto 1877 - 1914," in A Not Unreasonable Claim by Linda Kealey (ed.) Toronto: Women's Educational Press, 1979.

49. Emily Ferguson Murphy. "Mothership" in the Canadian Home Journal. May (1931), page 1.

50. Murphy, "Mothership", page 2.

51. Murphy, "Mothership", page 1.

52. Murphy, "Mothership", page 2.

53. The source of these monies is unclear and not referred to in any available papers. It is likely, however, that a sale of family property, possibly passed down from parents or grandparents and possibly well-invested, provided this allowance.

54. Sanders, page 54.

55. Sanders, page 54.

56. F.M.L. Thompson. The Rise of Respectable Society. Cambridge: Harvard University Press, 1988, page 85.

57. Thompson, page 75.

58. Thompson, page 128.

59. Thompson, page 319.

60. Emily Ferguson Murphy. Impressions of Janey Canuck Abroad. Toronto, 1902, page 75.

61. Grant, The Church in the Canadian Era, page 99.

62. Murphy, Impressions of Janey Canuck Abroad, page 73.

63. Murphy, Impressions of Janey Canuck Abroad, page 102.

64. Neil Semple, "The Impact of Urbanization...", page 160.

65. Cook, The Regenerators, page 25.

66. Murphy, Impressions of Janey Canuck Abroad, page 102.

67. Murphy, Impressions of Janey Canuck Abroad, page 101.

68. Murphy, Impressions of Janey Canuck Abroad, page 10.

69. Murphy, Impressions of Janey Canuck Abroad, page 10.

70. Murphy, Impressions of Janey Canuck Abroad, page 75.

70. Murphy, Impressions of Janey Canuck Abroad, page 75.

71. Murphy, Impressions of Janey Canuck Abroad, page 76.

72. Sanders, page 62.

73. Mander, page 56.

74. No released papers exist for this period.

75. Sanders, page 83.

CHAPTER 3

Any attempt to understand the impetus that would stimulate Emily Murphy toward agitation for social reform necessarily requires an examination not only of life experiences but of how the environment within which she moved influenced her views. This chapter is an attempt to examine the ways in which Murphy was affected by the problems she found in Edmonton. Although her character was strong and singular, she was nonetheless affected by other reformers who also had a vision of what the good society ought to be. What emerges, then, is the climate for reform in Edmonton and in Alberta. This discussion is drawn from her own extensive writings, but it is interesting to note that in almost all cases, she presents the law as the most useful tool in the reform of society. (Murphy's experiences as a Police Magistrate is dealt with elsewhere in the study.) For the purposes of this discussion, however, an examination of Murphy's correspondence on the subject of reform will be analyzed, although a greater emphasis will be placed on her views in the period after 1916 when her reform activities were most concentrated.

After her arrival in Edmonton, and possibly spurred by the establishment of a V.O.N. hospital in Swan River, Murphy joined several social and professional organizations, which were local, provincial, national and international in scope. By 1916, these included the Charter Committee of the City of Edmonton, the movement for public playgrounds in Edmonton in 1911, the movement for the establishment of Municipal Hospitals in Alberta in 1910, the movement for the election of women as school trustees in Alberta in 1912, the Alberta Association for the Prevention of Tuberculosis, the Canadian Women's Press Club, and the Society of Woman Journalists of England. Of perhaps the greatest importance, however, was her agitation for the

enactment of the Alberta Dower Law in 1910, a subject that will be discussed in detail later. This brought her into close contact with the legal establishment, and provided at least some experience for what was to be her life's vocation. Thus, Murphy's activities as a social reformer exploded after she settled in Edmonton. Up to this point, her marital, maternal and domestic duties had taken precedence over social agitation. But her exposure to the conditions of urban and industrial England had opened her eyes to the problems of social injustice and served to propel her towards reform.

Edmonton, like other urban centres in western Canada, faced a number of social problems and generated an active reform movement that addressed a variety of social causes. The development of Western Canada was shaped by the wheat economy which stimulated the commercial expansion of the region:

> Edmonton had always relied on the rich farm lands of central Alberta to provide it with wholesale and retail functions, and in the years of rapid western growth the construction boom supported local lumber mills and brick yards. The basic energy source of that era, coal, was available in abundance in local mines, and the discovery of natural gas at Viking supplemented this advantage when a pipeline to the capital was completed in 1923. Moreover, because Edmonton was the only large centre in the area, its cattle trade was eventually large enough to sustain an important meat-packing sector.[1]

The rapid growth of Edmonton's population - from a mere 2600 in 1901 to 11,000 by 1906[2] - was facilitated by railway construction which in turn spawned new consumer industries and a vibrant service sector:

> New industries started up, and along Jasper Avenue for about ten blocks, as well as in the older sections of the city east of 101 Street, new brick hotels and business blocks sprouted... (In 1907/08)...some fifteen thousand people barely established themselves were called upon to provide streets, sewers, sidewalks and telephones, and a host of other services...[3]

One general cause for movement to urban centres in the prairie west may have been the rate at which homesteaders failed to "prove up" and obtain a patent for

their homesteads, a situation which was dramatic in Alberta: fully 45% of patents were never filed on quarter-sections of land and this activity had serious consequences for the ever-expanding urban centres.[4] Moreover, prairie towns and cities tended to attract significant numbers of single, young men, which created another set of problems:

> One outstanding characteristic of unskilled workers was their mobility. If they were young, single and in quest of a grubstake, they might travel the breadth of the country and hold a half dozen jobs in as many industries in the space of a year. If they were married or had a homestead, they might take to the camps for six months of each year, returning to family or farm in the intervals.[5]

Finally, the third general cause of social instability was immigration which was a bicephalous monster. Immigration was massive; seen as the last best west, Alberta was one of the few remaining agricultural frontiers. The population of Alberta jumped from 73,022 in 1901 to over 588,000 by 1921.[6] Over 45% of this growth was in the form of immigration, and by the early years of the twentieth century, the west generally was accepting 60% of all new immigration to Canada from foreign lands.[7] Sheer numbers posed significant and unique problems for Western Canadians; the ethnic and religious backgrounds of many immigrants were also unsettling. There were Ukrainians and Germans, Japanese and Chinese, Mennonites and Doukhobors. The result was a society characterized by ethnic heterogeneity as the following chart illustrates:

Ethnic Origin of the Population of Alberta, 1911 - 1941 (per cent)

	1911	1921	1931	1941
British	57.49	59.80	53.21	50.17
French	5.50	5.25	5.24	5.40
Dutch	0.85	1.61	1.87	2.57
German	11.13	6.01	10.18	9.76
Italian	0.57	0.68	0.65	0.61
Jewish	0.40	0.55	0.51	0.52
Polish	0.61	1.22	2.89	3.37
Russian	2.15	3.61	2.24	2.43
Scandinavian	7.90	7.56	8.13	7.97
Ukrainian	4.70	4.05	7.64	9.03
Other European	3.77	5.90	4.48	4.79
Asiatic	0.56	0.73	0.67	0.53
Indian and Inuit	3.05	2.47	2.08	1.58
Others and not stated	1.32	0.56	0.21	1.27[8]

The Anglo-Protestant elites across the prairies had to "come to grips with the obvious fact of ethno-cultural diversity",[9] especially since so many of the social problems apparent in the new urban centres - prostitution, crime, gambling, alcohol and so forth - were linked to the "foreigners." The challenge to the traditional Canadian way of life and moral values was clear, and few reform-minded citizens could ignore it. One response was the demand that British-Canadian ideals be maintained; in 1906, the *Edmonton Bulletin* proclaimed:

> The ideal of the west is not only greatness, but greatness achieved under the British Flag and stamped and moulded by the genius of race.[10]

The Anglo-Protestant elite, from which many social reformers were drawn,

> ... gloried in the exploits of the British Empire and believed in loyalty to God, King and Country. They had been taught to believe that the Anglo-Saxon peoples and British principles of government were the apex of both biological evolution and human achievement and they believed that Canada's greatness was due in large part to its Anglo-Saxon heritage...[11]

As members of the elite, social reformers were predominantly concerned with the type of social vices and problems which were becoming increasingly more visible as the numbers of miscreants increased.

> For reform minded citizens in Alberta's emerging urban centres, prostitution, crime, the use of alcohol, and non-Anglo-Saxon immigration were seen as interrelated social problems which needed to be met if Alberta and Canada were to become the societies they envisaged...[12]

Foreign immigrants threatened that ideal, as Superintendent G.E. Sanders noted in Calgary:

> The great influx of population brings with it its proportions of the criminal element and the fact that many of these people come from countries where the laws are more honoured in the breach than in the observance.[13]

The Chinese especially were linked to crime because illicit drugs and opium dens were ostensibly provided by newcomers in Chinatowns.[14] The newly-arrived immigrant, then, became the scapegoat for western Canada's social problems especially in the rapidly expanding urban centres. Consequently, the immigrant bore the brunt of the reformers' wrath and the connection between foreign immigrants and vice was firmly established.

Emily Murphy shared many of these views:

> ...for several years now, in this right pleasant Province of Alberta, we have been anxious because of the incoming hordes of foreigners who have been trekking into this land in long and lustful lines...and as we consider...their dull unawakened minds and their ingrained prejudices, our hearts fail us with fear, for the task of welding this rude conglomerate mass into a coherent and definite whole seems a well-nigh titanic task.[15]

Like many reformers, she became concerned with the "Canadianization" of the immigrant - the children were to be taught the proper values in the schools and especially were to learn Canadian laws:

> ...while these outland folk learn much from our well-conceived and well-executed laws...the inculcating of the great Anglo-Saxon ideal must...be a long and painful process... this can only be accomplished by careful instruction - line upon line, precept upon precept...[16]

It was assumed by Murphy that the foreign immigrants could not shed their "natural" apathy and ignorance and were, therefore, not completely redeemable, not

absolutely assimilable. The child of this same foreigner, however, was considered a *tabula rasa* and could adopt the proper values. It was hoped that some enlightenment would also rub off on the parents making them seem, perhaps a little less foreign, slightly more *Canadian*.[17]

Murphy's views about foreign immigrants hardened after the First World War. She railed against the open door which allowed immigrants from conquered lands to come to Canada:

> ...(It) took no super-sense to see that if we were to hold this prodigious area as against others whom we have been pleased to designate as "the beaten men of beaten races", we must set about to invite to Canada those Europeans whom we felt to be in the class of desirable citizens.[18]

She was especially critical of the way in which millions of dollars had been spent on government propaganda outlining Canada's tremendous opportunities in an effort to attract immigrants, while at the same time, relatively little was spent on assistance in establishing these immigrants on homesteads:

> ...in the three prairie provinces, on 51,000 farms there was not one cow and, on nearly as many, no poultry... We must not only mount them but put their feet in the stirrups and teach them to ride. We should see that if required, they are "grub-staked", or supplied with sufficient capital to see them through the lean years when, as yet, they have no crops...[19]

Murphy was staunchly in favour of establishing an agency that would carefully regulate the nature of immigration and ensure that these new-comers would become contributing members of Canadian society.

Emily Murphy's desire for more social regulation was also reflected by her support for prohibition. The temperance movement appeared in British North America as early as the 1820s with an emphasis upon individual self-control. By the end of the century, though, the focus had become the abolition of alcohol through government prohibition. The Woman's Christian Temperance Union, formed as a national body in

1883, was perhaps the best known of the prohibition groups. The WCTU was an expression of social control - its mission was to bring the idea of sobriety to the immigrants and the working class. Alcohol was seen to be the chief cause of conflict within the family:

> Recently a friend of mine was urging a little boy two years of age to join the Band of Hope, when he startled her by saying, "You don't know what you are asking of me. *Never drink any more liquor?* I love it better than my life, I could not live without it". Think you that was an acquired taste with that child? No, no; his parents are responsible for it...[20]

Moreover, drunkenness was linked to numerous other social evils, especially crime, poverty and mental illness. Liquor, however, was readily available and in 1915 "there were 7 breweries producing strong malt beer; 250 licensed hotel bars; 11 licensed private clubs (27 in 1914); 427 bartenders; 51 retail liquor stores; 22 travelling salesmen; and 3 railroads serving liquor in dining cars" in Alberta.[21] Thus, the thrust of the movement became the abolition of the manufacture and sale of alcohol - prohibition. Murphy's own sense of moral character fitted in well with the goals of the WCTU and her legal-mindedness soon led her to join the ranks of those involved in the prohibition movement. But these reformers were not merely concerned with elimnating the effects of alcohol use and abuse in immigrant and working-class communities. They were involved as well in addressing the other social problems linked through alcohol to immigration and urbanization. The WCTU sought, for example, a return "to the way of life exemplified by a rural morality".[22]

The success of the WCTU in forcing prohibition reveals broader patterns among the social reformers. For many Anglo-Protestant women of the middle class across the west, the whole question of reform was a part of their own sense of expanding their sphere into society to effect moral and social changes. It reflected a sense of sisterhood and the strength of networking.[23] More important these moral reformers

believed that the family was threatened; they wished to uphold the family, marriage, and property in the face of unsettling changes. As James Snell has argued:

> ...Marriage represented a code of moral and sexual behaviour which was felt to have long ordered society; marriage breakdown, on the other hand symbolized a wide variety of conduct that was considered immoral, anti-social and unacceptable...marriage represented the divinely ordained method of ordering the home, of controlling and legitimizing passion and sex, of structuring relations between males and females...marriage was a basic means by which the state might influence the character of and conduct in the home...[24]

It was expected that almost all women in Canadian society would marry. Only through a marriage would a woman be truly fulfilled. A letter from one Hattie Rogers even reflected the hope that Murphy could help her meet someone to marry:

> ...I take heart of grace and apply...Hattie Rogers is my name - spinster, poor but proud and of discreet age. Well educated and of good protestant family. Good housekeeper, good plain cook, and while I cannot promise that my performance on the church organ would gratify the parish I am sure that my playing on the washboard would satisfy most housewives... it is my firm belief that women are best occupied when engaged in the four k's -- cooking, kitchen, children, church...[25]

The sense of moral outrage at changing standards of propriety, which she shared with women of a similar background enabled Murphy to formulate her own set of social standards, her own code of moral reform, and ultimately, her own sense of justice in the court room. It has been argued that:

> ...reformers discussed prostitution in terms that reflected their acute anxieties about other unresolved ills and problems of the day: the unrestricted immigration, the rate of venereal disease, the anonymity of the city, the evils of liquor... and most important of all, the changing role of women in society...[26]

Emily Murphy also acted as a sounding board for people wishing to express their concern about moral issues. And very often, the tone of these letters was one of relief, that she could be approached about problems such as prostitution which appeared to plague the city.

Murphy's ideas about public morality, therefore, were not influenced solely by her own experiences but also by her involvement, although not directly, with the general public. A letter to Murphy, dated 1916, for example expressed outrage at loose morals.

> ...There is a man and young woman who I think are at present registered at one of the local hotels... (He) has a crew of about 100 men in at Fon Du Lac, some 300 miles north of Fort McMurray, working the silver claims... these people stopped there on their way up river... told me about how they were all drunk, and how this woman lived with all the men. Now I contend that a woman of that kind should not be allowed in that far North Country, as you know yourself what damage a white woman can do among a bunch of white men in the far north, where otherwise if they were not allowed to go up there, these men might live decently and be true to those they have left behind.[27]

This letter is of particular interest. There is a sentiment, while subtly expressed, that it is the woman who is leading these men astray. The tone suggests that if this immoral woman was prevented from travelling with them, they would be upstanding gentlemen. The moral character of the men is not discussed, except to suggest that they were tempted by the solicitations of this loose woman. Many, even in spite of their illiteracy, were extremely forthcoming in order to ensure that Judge Murphy was aware of the immorality that surrounded them. The following letter, signed by "a close neibor" and dated a bit later, is illustrative:

> ...I am laying a matter before you that is quite interesting and will stand a rigid investigation. There is at this number 10917 - 97 St. a negress name Ethel Croslin.. and is keeping immorality going on... have a negress there who have left her husband name is Pearl Sneed and is running around with a young man (by name) Edgar Louis are living as man and wife and are not married... she is a bad caracter and should be taken up and investigation made to prove they are married we don't like to see such for the sake of our sons and husbands... investigate if they are gone to bed will prove the facks...[28]

There also seemed to exist the belief that morally loose women were somehow not quite right, that they were mentally deficient or unstable in some way. The following

letter from a Mr. Arthur B. Clementson provides a good example:

> ...Gladys Redwood, who ran away from her home at Dunstable... She is not a normal girl... she has now and then these strange wild moods when she seems to lose all sense of right and wrong, and then they pass just as suddenly and she is sorry and really wishes to make up for it... At the same time she is morbidly sensitive to ridicule or criticism...[29]

Of course, not everyone who wrote to Murphy was concerned with the immoral character of some fallen woman. Many women wrote to her to protest the treatment of themselves or of female neighbours or friends. The following letter from a concerned citizen illustrates the belief that the primary breadwinner in the family was the man:

> ...Mr. McLaughlin of No. 4 Greencourt Apts. apparently does not support his wife according to her own story as she told me, he had not worked over one month since his discharge...as she is little more than a child I think it is a shame for a man to not only neglect her but to look to her for his support as well...I am writing this purely out of desire to help the girl as she is afraid to report her husband to you...[30]

It appeared that discontent arose from a perception that woman, as the foundation of the family and essentially its moral protector, was to be supported so that she might fulfill the role prescribed for her. The male function, on the other hand, required that the husband provide the stable "other" of the marital relationship. While paid labour was not the exclusive sphere of men, the concept that a woman's place was in the home was an all-pervasive one. But reality often sharply challenged this ideal.[31] The social and economic realities of early twentieth century western Canada were such that even though the ideal of womanhood was to remain in the home and be the guardian of morality and purity, it was very often only available as an option to the middle-class woman. Immigrant and working class women had to contribute to the family income. Family dysfunctionality, moreover, was neither condoned nor truly understood and little or no attempt was made to address marriage breakdown. The letters to Murphy reflect the commonly held belief that these problems were the result

of individual moral failings.

With her fellow citizens, Murphy perceived her society to have been fundamentally affected by the changes in its infrastructure: burgeoning urbanization and exploding immigration were perceived as causing a wholesale abandonment of traditional social values and morals and it seemed that the rights of the family in general, and women in particular, were becoming less entrenched and more subject to interpretation. What has been examined, then, is the reform milieu to which Murphy was exposed. But in her approach to addressing social problems Murphy was prepared to use both the law and the coercive power of the state to achieve changes.

Notes - Chapter 3

1. Gerald Friesen. The Canadian Prairies: A History. Toronto: University of Toronto Press, 1984. page 281-2.

2. Friesen, page 285. Edmonton's population figures evidence startling peaks at the years 1913 and 1914 as the figure below illustrates.

FIGURE I - Population of Edmonton - Selected Years

Year	Population
1891	700
1906	11,167
1911	30,479
1913	67,243
1914	72,516
1916	53,846
1921	58,821
1926	65,163
1931	79,187[8]

Statistics from 2 sources: 1891, 1906, 1911, 1913, 1914, 1916 from the Civic Handbook by C.J. McGonigle: City Clerk's Office, 1983. All others from Alan F. Artibise (ed.) Town and City. Regina, 1981.

3. J.G. MacGregor. Edmonton - A History. Edmonton: Hurtig Publishers, 1967, page 163.

4. Friesen, page 309.

5. Friesen, page 292.

6. Howard Palmer. Peoples of Alberta: Portraits of Cultural Diversity. Saskatoon: Western Prairie Producer Books, 1985, Introduction.

7. Donald Avery. Dangerous Foreigners. Toronto: McClelland and Stewart Ltd., 1979, pages 194-197.

8. Howard Palmer. Patterns of Prejudice. Toronto: McClelland and Stewart Ltd., 1982, page 10.

9. Howard Palmer. "Strangers and Stereotypes: The Rise of Nativism 1880-1920" in The Prairie West by R. Douglas Francis and Howard Palmer (eds.) Edmonton: University of Alberta Press, 1985, page 310.

10. The Edmonton Bulletin, 27 January 1906.

11. Palmer, Patterns of Prejudice, page 23.

12. Palmer, "Strangers and Stereotypes: The Rise of Nativism 1880-1920," page 310.

13. Canadian Sessional Papers, 1904, No. 28. "Annual Report of Superintendent G.E. Sanders", Appendix E, Calgary, November 30, 1903, page 55.

14. Emily Ferguson Murphy, The Black Candle. Toronto: T. Allen Company, 1922. In Murphy's definitive study of the drug problem, she specifically identifies the Chinese as an unwanted immigrant group because of what she believes to be their propensity for addiction to opium and other narcotic drugs. See also Terry Chapman, "The Drug Problem in Western Canada, 1900-1920", Unpublished Masters Thesis, University of Calgary, 1976, page 78.

15. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 2, File 59. Article titled, "The School Library in Alberta", n.d., page 1.

16. Murphy, "The School Library in Alberta", page 1.

17. Murphy, "The School Library in Alberta", page 2.

18. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 43. Article titled, "Immigration", n.d., page 2. Any threat to this Anglo-Protestant ideal was to be dealt with harshly and immediately in order to preserve the integrity. In the same article on page 5, Murphy noted:

> I think it can hardly be doubted that we should stand for a quota law in Canada such as they have in the United States so that we may intelligently regulate the influx of foreign peoples who, in the future, shall come to our shores...

19. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 34. Article titled, "All We Like Sheep: A Study in Migration", 1921, page 6.

20. Wendy Mitchinson. "The WCTU: For God, Home and Native Land: A Study in Nineteenth-Century Feminism" in A Not Unreasonable Claim: Women and Reform in Canada by Linda Kealey (ed.) Toronto: Women's Educational Press, 1979, page 164.

21. R. McLean. "A Most Effective Remedy - Temperance and Prohibition in Alberta, 1875-1915", Unpublished M.A. Thesis, University of Calgary, 1969, page 42. On 01 July 1916, the Alberta Liquor Act came into effect as the result of a referendum held in the previous year. Prohibition had received a favourable vote, and Alberta was considered "dry". The success of the temperance movement (success in the sense of the establishment of prohibition) was an example of a reform movement that developed in other areas in North America and was transferred to the burgeoning west where conditions seemed to exaggerate the problems that reform advocates wished to obliterate. Many reformers viewed the problems of immigration, urbanization and economic development in light of the increased use and abuse of alcohol and demanded that the excesses be mitigated through Prohibition. But it was not until the war years that Prohibition was introduced into law and many felt that its acceptance was merely a politically expedient decision.

22. Nancy M. Sheehan. "Temperance, the WCTU and Education in Alberta, 1905-1930", Unpublished Ph.D. Thesis, University of Alberta, 1980. page 8.

23. Carol Lee Bacchi. Liberation Deferred?
Toronto: University of Toronto Press, 1983., page 148. In her study of the English-speaking Canadian suffragists, Bacchi has provided an analysis of the backgrounds, professions and motivations of these supporters of the suffrage campaign. She concludes that what suffragists were demanding was not a release from the prescribed gender roles but rather an enhancement of that same role.

24. James G. Snell. "The White Life for two: The Defense of Marriage and Sexual Morality in Canada, 1890-1914" in Histoire sociale/Social History, Vol. XVI, No. 31 (May 1983), page 112.

25. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 28. Letter to Janey Canuck from Hattie Rogers, n.d.

26. Ruth Rosen. The Lost Sisterhood. Baltimore, Maryland: The Johns Hopkins University Press, 1983, page xiii.

27. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 4. Letter to Mrs. Murphy from Mrs. Twitchell dated 17 June 1916.

28. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 1. Letter to Magistrate Murphy from "a close neibor" (sic) dated 8 November 1922.

29. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 13. Letter to Mrs. Murphy from Mr. Arthur B. Clementson, dated 14 March 1918. Any woman who could want a "loose" lifestyle seemed to have been considered anathema, as the following undated letter to Murphy suggested:

> ...if you will raid the North Star Rooms you will find a woman of the underworld in room eight... she has her little child a girl of 11 years old with her she is teaching her all of the Degrading Habits she can will you investigate this. I would come to court if you grab her...

Taken from Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 13. Letter to Mrs. Murphy from "your friend", n.d.

30. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 10. Letter to Magistrate Murphy from Jack Martin dated 17 February 1924.

31. Ramsay Cook and Wendy Mitchinson (eds.) The Proper Sphere. Toronto: Oxford University Press, 1976, page 6.

CHAPTER 4

In her approach to questions of social reform, Emily Murphy made the maintenance of the family her central concern, and in this regard she shared the same perceptions as other reformers. But she was not content to pursue moral reforms, such as prohibition, to the exclusion of other matters. Her activism to change the Dower Laws, her opinions regarding marriage and divorce, as well as juvenile delinquency, and her involvement in the Social Hygiene movement, which addressed issues like birth control and abortion, reflect the broad range of her reform interests. Yet she also recognized that change could only be attained through the formal institutions of the law and the state. And she was more than prepared to use the coercive power of government to achieve her goal of a socially-pure Canadian society.

In 1924, a woman wrote Emily Murphy about the question of improving property rights for married women:

> ...I am taking the liberty of addressing you...to tell you what no doubt hundreds of other women of Alberta has (sic) already told you... the great joy and blessing...it will give to women to see some of the old laws concerning our sex , smashed to pieces, and to see laws of justice taking their place... my heart aches for some poor brow-beaten wives, I tell you if these poor creatures had as much legal rights to the home property as their husbands, those very same husbands would be very much more considirate (sic) to their wives and their poor wives would not be looking old enough to be their husbands mother or perhaps grandmother...[1]

It is unclear whether the unknown writer of this letter was aware that Murphy, on behalf of the National Council of Women, had been actively attempting to establish an equitable Dower Law since 1910.

Legal homestead ownership for women was set out in Section 9 of the Dominion Lands Act (1872) which provided that:

> ..."every person who is the sole head of a family" could apply to take up one hundred and sixty acres of homestead land in the surveyed portions of the west,' subject to the usual conditions of entry fee, residence and improvements...In the capacity of sole head of a family, therefore, there were from the 1870s onwards three categories of women qualified to enter for homestead lands: widows, divorcees, and, in scrupulously documented cases, separated or deserted wives - providing...that they had children under eighteen dependent on them for support.[2]

However, dissatisfaction with these provisions about property rights for married women remained.[3] Apart from an ordinance passed in 1890 granting a married woman separate property as provided by the English statutes, marital law continued to be based on the old principles of common law and equity. Although the married woman had gained control over her separate property, she still had no rights in the matrimonial home held in her husband's name or in property or income acquired by joint labour with her husband.[4] As a result, the pioneering woman who had worked side by side with her husband in building the family homestead remained entirely dependent on him for her own economic well-being. Furthermore, to make matters worse, the wife's common law right to a dower interest in one third of her deceased husband's estate had been abolished by the Territories Real Property Act of 1886.[5] By 1909, therefore, women began to call for the restoration of some form of the wife's traditional dower right as well as some guarantee of the wife's interest in the family property during her husband's life. A young mother of four appealed to Murphy for assistance when her husband refused to provide for their eldest child to attend school. Moreover, in the previous winter she and her children had suffered severely; they

> ...nearly froze and starved to death...going without winter underwear or shoes part of the time...no blankets....and had to sleep with clothing on...the little ones (going) many a night without food.[6]

Murphy was galled by the treatment of married women in the laws respecting property ownership and transfer. In response to the condition of married women,

Murphy proposed "An Act Respecting the Married Women's Property Act" and, with the Conservative R. B. Bennett as its sponsor, the bill received second reading in the Legislature.[7] Mere days later Premier A.C. Rutherford's Liberal government passed the "Married Woman's Relief Act" that granted a widow the right to apply to the courts for relief when, by the terms of her husband's will, she received less of his estate than she would if he had died intestate. As the Convenor of the Committee on Laws for the Better Protection of Women and Children, a committee of the Edmonton Local Council of Women, Murphy crusaded valiantly for a revision of the legislation so that it would recognize a married woman's entitlement to a share of the common property in the marriage. In a letter to the Chairman of the Legal Bills Committee, Murphy wrote, in part:

> ...I am instructed by the Edmonton Local Council of Women to make protest on their behalf against a bill which is known as "The Married Women's Relief Act". It has been stated on the floor of the House that this bill meets the wishes of your petitioners concerning the matter. This statement is wholly incorrect. The Bill, in no particular meets the approval of your petitioners...It is our opinion that "The Married Women's Relief Act" is in every clause, open to serious objections both from the standpoint of convenience and equity and we would earnestly request that these clauses be amended before their third reading...[8]

But her efforts failed. Although bitterly disappointed, Murphy continued her campaign in the meeting halls and homes of the many members of the various women's clubs in the city. When Murphy recalled her experience of 1910 she concluded that "because women had no votes their going to the Legislature was not taken seriously".[9]

Due to increased pressure by various womens groups, in the spring of 1915 Premier Arthur Sifton's Liberals passed "The Married Woman's Home Protection Act" which provided that a married woman could file a caveat against the homestead, which was defined as the house and building occupied by the wife as her home. Dismissed

as a hoax by the WCTU, the Alberta Council of Women (whose President was Emily Murphy) and the United Farm Women of Alberta, the legislation was replaced in 1917 by the "Dower Act" that granted a married woman a life estate in the homestead arising on the death of her husband and provided that any disposition of the homestead made by a married man without his wife's consent would be null and void.[10] Although initially Murphy had been extremely supportive of this legislation, by 1926 she had decided that the "Dower Act" was one of the many legal "stumbling blocks" to complete equality in marriage between the sexes;

> ...since despite government intervention, a married woman still had no pay, no property, no possession and is even dependent for her food and clothing...[11]

Murphy believed that the best means to obtain specific reforms, such as dower laws, was through political activity. Consequently she was an ardent supporter of women's suffrage, though within the limits imposed by maternal feminism. Like many reformers she was not interested in mere voting equality; in an address to one audience during the suffrage campaign, Murphy said:

> I do not like the word 'feminist'. It is a poor and paltry word when applied to movement which today dominates all other questions that involve the social, individual, and moral freedom of the entire world. This, <u>this</u> is a humanist movement.[12]

The attainment of both prohibition and women's suffrage during World War One is a familiar story and one that need not be repeated in this thesis. But the initial burst of enthusiasm over their successes gave way to a desire on the part of reformers to consolidate the gains which had been made. Suffrage did not produce the ideal moral society in Canada; women had won political equality with the vote but had no real political power. For Murphy this was brought home most clearly when her status as a magistrate was challenged on the grounds that she was not a "person". In 1916 a barrister who appeared often in Murphy's courtroom raised an objection to her acting as a judge on the grounds that the British North America Act did not define

women as "persons" in the same way as men were. In 1917, however, the status of female jurists was finally settled in the Supreme Court of Alberta. Mr Justice Stewart in Rex vs. Cyr (1917), 3 W.W.R. 849 stated that "applying the general principle upon which common law rests, namely that of reason and good sense... there is... no legal disqualification for holding public office in the government of this country arising from any distinction of sex.."[13] It was a small victory because by then two female Police Magistrates, Murphy and Alice Jamieson in Calgary, had already been appointed.

However, the British North America Act remained unchallenged and because women were not legally persons, they could not be appointed to the Senate. Murphy believed that women had the political power to change the situation:

> The appointment of women to the Senate depends entirely on women's own strength. They have the ballot, and can abolish the Senate, and elect a government favourably. In the end, the women must succeed. Their interest lead that way. This insures unity among them.[14]

By 1928, the case had reached the Supreme Court of Canada as five Alberta women - Murphy, Nellie Mooney McClung, Henrietta Muir Edwards, Irene Marryat Parlby and Louise Crummy McKinney - sought legal confirmation of women's status as persons.[15]

The Court answered in the negative on 24 April 1928. The justices pointed out that they were "in no wise concerned that the desirability or the undesirability of the presence of women in the Senate, nor with any political aspect of the question submitted." And even though there could be no doubt that the word "persons...connotes human beings - the criminal and the insane equally with the good and the wise citizen, the minor as well as the adult," they still found that "persons" were males and only males.[16]

Murphy was severely disappointed and often quoted her friend and ally, Mary Ellen Smith, who stated: "the iron dropped into the sores of women in Canada, when we heard that it took a man to decree that his mother was not a person."[17] But,

undaunted, the 'Famous Five' appealed their decision to the Judicial Committee of the Privy Council in England, which was Canada's final court of appeal. The Judicial Committee of the Privy Council decided that the word "persons" included women and that "women are eligible to be summoned to and become members of the Senate of Canada." Upon their review of women's legal incapacity in the history of Canada, they commented that "the exclusion of women from all public offices is a relic of days more barbarous than ours...Customs are apt to develop into traditions which are stronger than law and remain unchallenged long after the reason for them has disappeared."[18] And what was Murphy's reaction? She later stated:

> Thinking the whole matter over, without any personal bias, one can easily see that there is neither room nor occasion for sex animpsity. One can see that we, men and women, must just go on loving and helping each other in the same old way.[19]

Emily Murphy's statement that men and women must just go on helping each other in the same old way clearly sums up her continued belief in social service. Throughout the 1920s she remained actively involved in the pursuit of social reform. She was a prolific (and often vitriolic) contributor to journals, magazines and newspapers. Thus she was able to keep her views about the problems besetting Canadian society, and the best methods of ameliorating those problems, before the public. Her concern with the law, and using the coercive power of the state to protect women and children, provide some insight into the changing nature of social reform in this period.

Murphy was not seeking a radical transformation in the position of women. She believed in the political equality of women and the intention of the law both to protect and improve the lot of women within the family and marriage. Murphy's concern with protecting the family was also reflected in her desire to reform the laws regarding women and marriage. She saw marriage as a partnership[20], but on occasion, such partnerships had to be dissolved. Yet divorces were very difficult to obtain. The

underlying notion behind concepts regarding marriage and divorce was that marriage was entered into with the knowledge that it would be indissoluble. Divorce, therefore, was either impossible or available to the very select few.[21] Very little has been written about the reform of the divorce laws in Alberta and most of the underpinnings of the established laws were enacted in England and later transplanted to Canada. The first English statute giving courts power to dissolve marriages was the Matrimonial Causes Act of 1857, which became the basis for divorce laws in most Canadian provinces, and was, notably, the law in Alberta.

> A husband suing his wife for divorce had to prove her adultery since the celebration of the marriage. By contrast, the wife suing her husband for divorce had to prove that since they were married "her husband had been guilty of incestuous adultery, or of bigamy with adultery, or of rape, or of sodomy, or of bestiality, or of adultery coupled with such cruelty as without adultery would have entitled her to a divorce *a mensa et thoro* , or of adultery coupled with desertion without reasonable excuse for two years or upward".[22]

Under the British North America Act, the Dominion Parliament reserved the exclusive right to grant divorces either by special Act of Parliament or, after 1905 when Alberta became a province, by application to the Supreme Court of Alberta. Such a public display of marital acrimony plus the very high costs involved likely discouraged many from applying for divorce.

Moreover, the vast majority of Canadians probably agreed with E.A. Lancaster who asked:

> Where will this country come to in twenty-five years if we are going to grant divorces simply because some woman has been disappointed in regard to her husband, and comes here and asks for a dissolution of her marriage because she made a mistake when she married? The whole social fabric of the country would go to pieces.[23]

Those seeking reforms in marriage laws for women were simply interested in "attaining the modifications which would both preserve the traditional institutions in the

face of rising pressures and improve their lot within it."[24] A stable home life was the ideal because it produced well-balanced children, and well balanced children tended to ensure a well-balanced society. Although there exists little in the Murphy *Papers* that deal with divorce reforms it is clear that she appears to have agreed with other reformers. In a letter dated 1920 and addressed to Sir George Foster, Acting Prime Minister, Murphy expressed her concern that family morality be made a paramount consideration of government social welfare policies: "I need hardly say that health conditions are largely dependent on home conditions, and on the morality of the parents."[25]

Her emphasis on the maintenance and health of the family was reflected by her appointment as Convenor for the Better Protection of Women and Children, formed under the auspices of the Alberta Council of Women and her involvement with the Canadian Social Hygiene Council; she was a vice-president of the organization until 1931. The concerns of the Council were wide-ranging:

> Social Hygiene, considered as a science, is a systematized and co-ordinated knowledge concerning human beings and the means by which as individuals and as a race their greatest possibilities, physical, mental and moral, may be developed both in this and future generations and by which their social relationships and society generally may be so organized as to ensure their greatest efficiency and happiness... further step of attracting general attention to the relationship which exists between preventable disease and death and the development of some of our more serious social problems -- and in the opening up of new fields for the development of plans which have to do with the building up of a finer and healthier race.[26]

Although its roots were in the public health movement, the Social Hygiene movement was committed to cleaning up the moral as well as the physical filth that plagued Canada - its focus was on venereal disease. During World War One, it became increasingly obvious to reformers that Canada's soldiers were not morally fit. Overseas the Army recorded fully 66,083 cases of VD.[27] It was believed that the

problem was just as wide-spread among the civilian population. By the 1920s, the Canadian Social Hygiene Council wanted to "deal with the cost of illness, the social causes and the results of illness..."[28] Murphy described a typical case at some length and outlined important consequences:

- The civic relief officer was listening to a plea for financial assistance. A man in the late fifties was repeating a time-worn story. The relief officer had listened to many dozens of similar accounts.
- The man was penniless. He had no work. He could get none since he was crippled with rheumatism. He had been ill a long time. His wife was ill. He had seven children. He thought they were ill, too. He could not afford doctors. He needed food - and coal - and money - and some clothing.
- A commonplace story, on the face of it, little different from a host of others. The relief officer had seen the man before -- many times. His case would be dealt with in the routine way.
- Preparations were made for investigation of the family's circumstances and the supplying of temporary relief.
- The man was sent to receive medical treatment. If it was possible to do so, the civic health authorities intended to put him on his feet again physically. He would once more be a self respecting citizen and not a mere drain on public funds.
- The applicant went for his treatment. He was given a blood test as a matter of course. He had rheumatism beyond a doubt, and he also had syphilis. He was placed under treatment in a venereal disease clinic. Then the medical men continued their investigation. The wife also had syphilis. She was placed under treatment. The children, tested one after another, all had syphilis. They were placed under treatment.
- But that is not all. For nearly twenty years, this particular family had lived with the assistance of public and private charities. They had been receiving help while still a comparatively newly married couple. In brief, local charitable organizations had made this family one of their investments.
- The returns which they could receive from this investment, it was to be expected, would be the children which this apparently normal couple would bring into the world to grow up and become valuable citizens. Here is the official report on the condition of each child:

  The eldest child is partially blind and deaf.
  The next two children are deaf and dumb.
  The fourth is a cripple.
  The fifth is an idiot.
  The sixth is mentally defective.
  The seventh is mentally defective.

SYPHILIS IS THE CAUSE OF THIS SITUATION.

- The disease had remained hidden for years. Its existences unknown, even to the father and the mother. It had been present at the time of their marriage but this couple had never been educated to its dangers. Their fitness for marriage, moreover, was a matter in which society was not at all concerned or interested.[29]

The Social Hygiene Council and Murphy's involvement in it are of singular interest.

Fundamentally, its mandate was wide and far-ranging: "to undertake such measures

as may be necessary to prevent, reduce or assist in the control of venereal diseases; to promote such conditions of living, environment and personal conduct as may best protect the family as a social institution; to cooperate with all governmental agencies in order to secure these ends; to cooperate with other national and local organizations with similar interests."[30] But the most basic tenet of the Council was the education of the general population in the inherent dangers of promiscuity and venereal disease. To this end, the Council relied on the distribution of pamphlets and posters, lectures, films and displays at exhibitions. The fortunes of their educational program formed a distinct pattern; there was rising enthusiasm around the end of the war, a peak between 1921 and 1923, and then a decline after 1924.[31] Jay Cassel has argued that the Council's program was not simply a moral reform campaign; many of those involved wanted to see an end to the medical condition of VD, a goal "that they would hardly have cherished if they intended to use a biological scourge simply to enforce a moral code".[32] Yet Cassel has downplayed the motivations of many reformers; indeed, it may be argued that they were not as concerned with physical health as they were with using the case against VD as an effective and acceptable method for enforcing a code of moral behaviour.

Emily Murphy was certainly as concerned with the moral health of the family as she was with its physical health. One of the consequences of poor moral hygiene was juvenile delinquency. Rebecca Coulter has written that:

> ...since a large proportion of (juvenile delinquents) came from working class homes, homes often beset by unemployment, the loss of one parent, or very marginal incomes, it was easy to create an explanation for delinquency based on the psychopathology of both adolescents and working class families. While some delinquent activity was part (sic) down to "the desire for fun"...much more was blamed on the failure of parents to provide the proper home life...[33]

And for young girls, the situation was even more critical since they would grow to become mothers and as "angels of the home" they would then take on the

responsibility of the proper home life for their own families. The future of the society depended to a great extent on women and their ability to ensure the correct upbringing of their own children.[34]

If children were unable to receive the proper moral upbringing in their homes, then it was the responsibility of the schools to inculcate religious values. In an address to the Alberta School Trustees Association, in February 1928, Murphy stated that religious instruction in the schools was a necessity, adding that some children would have no religion at all unless they got it in the school.[35] And, in her opinion, legislation was required to bring the power of the law behind religious training in the schools:

> It is a lean brained policy...not to afford some ethical or religious teaching in the public schools, such a policy means an attempt to preserve sectarianism in preference to the essence of Christianity ...The point we have to consider...is whether in view of the increasing delinquency among children in Canada we are justified in debarring from our public schools the spiritual tenets of the gentle Christ...[36]

For Emily Murphy, the state should be actively involved in establishing social standards and moral codes - it should act as parent. She wrote to Charlotte Whitton, who shared her concerns, that the government should assume the responsibility for maintaining child support, if the family was abandoned by the father, or he died - "obtaining support for the child should not rest on the mother."[37] The state may also have to control the process of parenting:

> ...the most efficient method of education... the placing of indifferent or calloused parents under a bond for the good behaviour of their children; require him to pay a fine or damages -- possibly both. For a certainty, there is no other cure in anyway comparable.[38]

Again, here as elsewhere, Murphy's immediate solution to the problem of parents who did not take sufficient responsibility for raising their children, was to enforce proper behaviour through the coercive power of the state. Murphy was not unusual in this regard; by the 1920s, many reformers began to recognize the need for

increased state control and intervention into family life and child care. The family, of course, remained the essential unit, not only for social stability, but even for the preservation of western civilization itself.[39] But the family continued to be threatened by the processes of social change - notably urbanization, with the consequent wholesale abandonment of traditional moral values; and immigration, with its challenge to the Anglo-Protestant character of Canadian society.

For Murphy, one of the best means to address these challenges was through the practice of birth control. Since the introduction into the 1892 Criminal Code of Subsection 179c, the selling or advertising of contraceptive devices, methods or abortifacients had been strictly forbidden, thereby making it difficult to limit conception. There is no doubt, however, that Canadians were, in fact, practicing birth control as the decline in the birth rates amply demonstrates:

> Despite the fact that couples were marrying earlier and in slightly higher proportions, completed family size fell from 4.1 children for parents born in 1871 to 2.9 children for parents born in 1911. The crude birth rate (the number of births per 1,000 population) slumped from the high thirties in the nineteenth century to 29.3 in 1921 and to an unprecedented low of 20.3 in 1936.[40]

Yet to many Canadians birth control was immoral, and some methods were illegal;[41] moreover it raised the spectre of "race suicide":

> The native-born population, in the struggle to keep up appearances in the face of the increasing competition, fails to propagate itself, commits race suicide, in short, whereas the immigrant population, being inferior, and having no appearances to keep up, propagates itself like the fish of the sea.[42]

It was this concern that prompted Murphy to place herself squarely in the centre of the debate, a debate that she conducted in the numerous newspapers and periodicals. Writing around 1925, Murphy fully approved of the position of the Federal Council of Churches of Christ in America, an organization composed of Protestant churches, which supported birth control:

> ...they believe that it is important to provide for the proper spacing of children, the control of the size of the family and the protection of mother and children; and because intercourse between the mates when an expression of their spiritual union and affection is right in itself... abstinence within marriage, except for the few cannot be relied upon to meet these problems, and under ordinary conditions is not desirable in itself.[43]

In addition, Murphy saw birth control as a means to regulate and control society:

> ...the private intimacies of life are not so private as they used to be. Because of the troubles, mental, moral and physical, and the results that arise therefrom, these are now being aired in the Courts, newspapers and in society generally... It is a good thing too, for nothing else is so important in that it not only affects every person in the world, but civilization itself...[44]

While birth control promoted social stability, it was also seen as a means to address specific social problems; if a woman was able to control her fertility, she might avoid the sporadic and unplanned pregnancies that, in Murphy's opinion, led to "unwanted babies", unhappy parents and ultimately, broken homes and juvenile delinquency.[45] In short, birth control would increase the social responsibility of the child-bearer and child-rearer.

Murphy did not, however, publicly discuss the available methods of birth control and their relative effectiveness. She focused upon the acceptability of the concept of family limitation. But she was totally opposed to abortion as a means of birth control, a view shared by many Canadians in this period:

> ...the process indicated is not the control of birth, but the control of conception... on the other hand, abortion is a deliberate interruption of pregnancy... it is murder in embryo...[46]

Murphy recognized that voluntary birth control was neither desired nor practiced by some members of society. And if the race was to be uplifted, it was necessary that the most capable members of society, those of the Anglo-Protestant middle class, maintain their position by regulating conception in general. The growth of the eugenics movement, in which Murphy was active, illustrated the fear that the least

desirable groups in society were multiplying so quickly that social chaos might result.[47]

> Through investigations they (eugenists) show that improvement in social conditions will not compensate for bad hereditary influences; that the problem of physical and mental degeneration cannot be solved by preventing mothers from working, by closing public houses, by erecting model dwellings; that the only way to keep a nation strong mentally and physically is to see that each new generation is derived from the fitter members of the generation before.[48]

It was to the element of social degeneration that Murphy turned her attention when she supported the opinion that the insane required the ultimate and irreversible from of birth control - sterilization. She believed the problem to be of epidemic proportions and one that required immediate attention:

> ...In our province...we find that approximately 4 per cent of the population is either insane or feeble-minded... (This) makes our quota...to be about 30,000. Of this number only 1,700 are receiving treatment. But even at that, the number of patients in our mental hospitals total more than those of all our general hospitals put together.[49]

And, she believed that Canadians, when compared with Americans, were doing relatively little to remedy the situation:

> ...there is this to be said of the Americans, they are doing something definite by way of prevention, whereas we in Canada have hitherto been content with housing only the few whom we classify as "dangerous", leaving all others to roam at large and to propagate their kind whether in wedlock or out of it.[50]

To support her contention that the insane were having children in alarming proportions, she offered that "3,206 people treated at the Ponoka Asylum since it was founded in 1911 have had at least 4,000 children to date, four out of five of which eventually will come to a mental hospital".[51] To add to her argument, she stated that "the feebleminded propagate somewhere from four to six times more rapidly than normal people".[52] Insanity became a more significant social problem because it was linked to criminal behaviour; she often quoted Dr. Goddard, an eminent authority

on insanity, who stated that "every feebleminded person is a potential criminal".[53]

As a result of pressure from reformers such as Murphy, the governments of Alberta, Saskatchewan and Manitoba created the Bureau of Social Research which looked into this question. The Bureau prepared a study on mental defectives who were classified into four major groups: idiots, imbeciles, feebleminded and moral defectives. Murphy was convinced that the "high-grade defective...is so often credited with a degree of responsibility which he does not, and can never possess".[54] As early as 1922, it was requested that surgeons be hired by the provincial governments to conduct the sterilization of the unfit according to certain guidelines. And in 1928, the Eugenics Board for the Province of Alberta was created and the Act Respecting Sexual Sterilization was passed.[55] Murphy justified such drastic measures by calling into play the teleology of civilization:

> ...this aggressive movement for practical eugenics...must be looked upon as a sacred crusade for the mental, moral, physical and social well-being of all classes and all nations irrespective of their religion, social rank or the peculiar pigment of their skin.[56]

The insane must not be allowed to reproduce.

Here again is evidence that Murphy sought regulation and control through the agency of the state. The society must be protected from any threat to her perception of "what ought to be". And because she had society's greater interests at heart, she felt herself to be amply qualified to dictate the parameters of behaviour. With confidence, she was able to assert without equivocation that "insane people are not entitled to progeny and sterilization is the only solution".[57]

What, then, can be concluded from an examination of Emily Murphy's social reform efforts? Like other reformers in this period, she witnessed increasing social instability, due to uneven economic development, urbanization and immigration, and the consequent escalation of social problems - drunkenness, prostitution, crime and juvenile delinquency, insanity; in short, immorality of all types. Although she was

active in the two greatest campaigns for moral reform - prohibition and women's suffrage - she increasingly turned to the state to achieve her goals. If society required moral uplifting - and it was very clear that it did - then the coercive power of the state could be used to achieve the necessary "social spring cleaning". And if social problems could not be addressed adequately by the government, then perhaps they could from the judicial bench. The reformative applications of the law could be her most powerful contribution to society.

Notes - Chapter 4

1. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 25. Letter to Mrs. E. Murphy, unsigned, dated 17 December 1924.

2. Susan Jackel. "Introduction" in Wheat & Woman by Georgina Binnie-Clark. Toronto: University of Toronto Press, 1979, page xxi.

3. See Susan Jackel as well as Catherine Cavanaugh, "The Women's Movement in Alberta As Seen Through the Campaign for Dower Rights 1909 - 1928". Unpublished M.A. Thesis, University of Alberta, 1986. Although Murphy has been credited with drafting the first dower legislation to be passed in Alberta, there does not appear to be a copy of this bill in existence. It is likely, however, that its main thrust was to limit the husband's freedom to dispose of his property during his lifetime or after his death since this issue appeared to be Murphy's main criticism of the existing legislation.

4. Cavanaugh, "The Women's Movement in Alberta...", page 26.

5. Cavanaugh, "The Women's Movement in Alberta...", page 27.

6. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 8, n.d.

7. Cavanaugh, "The Women's Movement in Alberta ...", page 43 n50.

8. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File #25, article entitled "An Act Respecting the Rights of Married Women in the Estates of their Deceased Husbands", 16 December 1910, and correspondence.

9. Quoted in Cavanaugh, "The Women's Movement in...", page 44.

10. Statutes of Alberta, "The Dower Act", assented to 5 April 1917, Chapter 14, pages 1-2.

11. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 50, article entitled, "Partnership in Marriage", page 2.

12. Byrne Hope Sanders. Emily Murphy Crusader. Toronto: The Macmillan Company of Canada Limited, 1945, page 289. See also Carol Lee Bacchi. Liberation Deferred? Toronto: University of Toronto Press, 1983, page 3.

13. Linda Silver Dranoff. Women in Canadian Law. Toronto: Fitzhenry & Whiteside, 1977, page 92.

14. Sanders, page 250.

15. Biographies of these women are available in many sources but for a short sketch see especially the Canadian Encyclopedia. See also Records of the Supreme Court of Canada (1928), pages 279 - 280.

16. Quoted in Linda Silver Dranoff, Women in Canadian Law, page 93.

17. Sanders, page 237.

18. Quoted in Dranoff, Women in Canadian Law, page 94.

19. Sanders, page 309.

20. Emily Ferguson Murphy Papers, "About Marriage Settlements", page 4. In this article, Murphy approvingly quotes:

> ...a partnership entered into by a man and woman who pool their common interests, and give their common service, the woman in the way in which seems incumbent on her to keep the home in order and look after the children; the man in the way for which he seems best fitted to go outside and earn the money upon which the family is to live...

21. Catherine Cavanaugh, "The Woman's Movement in Alberta...", page 113 n141. Divorce cost upwards of $2000.00 and often took several years to obtain. And, also of note, is the concept that no mention was made of the need or desirability of divorce. Divorce courts were never established in Alberta but under the British North America Act, the Dominion Parliament reserved the exclusive right to grant divorces either by special Act of Parliament or, after 1905 when Alberta became established as a province, by application to the Supreme Court of Alberta. Before the establishment of the Matrimonial Causes Act of 1857, there were two available remedies: "the divorce *a vinculo matrimonii* (from the bonds of matrimony) and the judicial separation *a mensa et thoro* (from bed and board). The divorce declared the marriage null from the beginning and allowed the parties to remarry. The judicial separation allowed the spouses to live apart but not to remarry. The ecclesiastical courts granted only judicial separations; the rare divorce permitting remarriage was secured through a private act of Parliament." from Linda Silver Dranoff, Women in Canadian Law, Toronto: Fitzhenry and Whiteside, 1977, page 62.

22. Dranoff, page 62.

23. Snell, James G. "The White Life for Two: The Defense of Marriage and Sexual Morality in Canada, 1890-1914" in Histoire sociale/Social History, Vol. XVI, No. 31 (May 1983), page 115.

24. Snell, James and Cynthia Comacchio Abeele. "Regulating Nuptiality: Restricting Access to Marriage in Early Twentieth-Century English-Speaking Canada" in The Canadian Historical Review, Vol. LXIX, No. 4 (December 1988), page 487.

25. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 17. Letter to Acting Prime Minister Sir George Foster from Magistrate Murphy, dated 17 February 1920.

26. Emily Ferguson Murphy Papers, City of Edmonton Archives, from the cover of a pamphlet titled "Social Hygiene--Who Pays?" n.d., circa 1928. Many persons of Canada's elite were members of this organization. The Patron was none other than His Excellency Viscount Willingdon, Governor-General of Canada; Vice Presidents included such dignitaries as the Honourable Dr. Forbes Godfrey of Toronto, Dr. Chas. Hodgetts of Ottawa and Judge Emily Murphy of Edmonton.

27. Suzann Buckley and Janice Dickin McGinnis. "Venereal Disease and Public Health Reform in Canada" in The Canadian Historical Review, Vol. LXIII, No. 3, 1982, page 338.

28. "Social Hygiene -- Who Pays?"

29. "Social Hygiene -- Who Pays?" See also Suzann Buckley and Janice Dickin McGinnis, "Venereal Disease and Public Health Reform", page 345. Feebleminded women in particular were of a singular danger to society: according to one study, 75 per cent of such women became prostitutes and it was feared that many more retarded women might join these ranks.

30. Jay Cassel. The Secret Plague: Venereal Disease in Canada 1838-1939. Toronto: University of Toronto Press, 1987, page 214.

31. Cassel, page 238.

32. Cassel, page 221.

33. Rebecca Coulter. "Not to Punish But to Reform: Juvenile Delinquency and Children's Protection Act in Alberta, 1909-1929" in Studies in Childhood History by Patricia Rooke and R.L. Schnell (eds.) Calgary: Detselig Enterprises, 1982, page 175. Coulter has used the income statistics available in the Annual Report of the Department of Neglected Children.

34. Coulter, page 175.

35. Edmonton Bulletin, 12 February 1928, article titled "Feeble-Minded Children Very Real Problem in Schools, Says Judge", page 27. See also Christian Science Monitor, 1 October 1925, article titled "Canadian Writer Attacks Soviet School System", page 21. In her address to the Conference on Child Welfare, Judge Murphy was quoted as attacking the Soviet school system as practised by the Russian immigrants in Winnipeg:

> She quoted from recitations made by scholars, mocking Christianity and the Deity, and asked if the children were to be brought up on these ribald blasphemies, these doctrines of the fang and claw...

See also Ottawa Citizen, 1 October 1925, article titled "Doctrine of Fang and Claw and Ribald Blasphemies Are Taught in Schools of West", page 30.

36. Social Health, 1925, article titled "Judge Emily Murphy Sounds the Tocsin", page 3.

37. Hamilton Banner, 23 March 1927, article titled "Trend Toward State Control", page 15

38. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 35. Article titled "Are Parents What They Used to Be?" dated 1927, page 7.

39. Rooke, Patricia and R. L. Schnell. "An Idiot's Flowerbed" -- A Study of Charlotte Whitton's Feminist Thought, 1941 - 50", in the International Journal of Women's Studies, Volume 5, Number 1 (Jan/Feb) 1982, page 39.

40. Angus McLaren and Arlene McLaren. The Bedroom and the State. Toronto McClelland and Stewart Ltd., 1986, page 11.

41. McLaren, page 22.

42. Taken from the Canadian Magazine (1906-07) and quoted in McLaren, page 17.

43. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 47. Article titled "Mothers and Birth Control" circa 1925, page 1.

44. Murphy, "Mothers and Birth Control", page 5 and 6.

45. Vancouver Sunday Sun, 1 May 1932, article titled, "Over Population and Birth Control" by Janey Canuck, page 46.

46. Vancouver Sun, 17 August 1932, article titled, "Birth Control: Its Meaning" by Janey Canuck, page 12. It is clear that contemporary practices predisposed couples who were unsuccessful at birth control to resort to abortion. Although the risks of abortion, both medically and legally, were extraordinary, many advertisements in newspapers and magazines offered up "period regulators" which were, in actuality abortifacients. See especially Angus and Arlene McLaren, The Bedroom and the State (Toronto, 1986) pages 32-53; Michael Katz, The People of Hamilton Canada West: Family and Class in a Mid-Nineteenth Century City (Toronto, 1975); Lorne Tepperman, "Ethnic Variations in Marriage and Fertility: Canada in 1871" in the Canadian Review of Sociology and Anthropology, XI, (1974) pages 287-307; Herbert Gutman, The Black Family in Slavery and Freedom, 1750-1925, (New York,1976) pages 80-82. As McLaren posits, only 98 cases of abortion were found between 1896 and 1937, all of which involved death. See also Angus McLaren, "Birth Control and Abortion in Canada, 1870-1920", in The Canadian Historical Review Vol. LIX, No. 3, 1978, page 320-22. See also Suzann Buckley and Janice Dickin McGinnis, "Venereal Disease and Public Health Reform in Canada" in The Canadian Historical Review, Vol. LXIII, No. 3 (1982) pages 337-354.

47. Carol Bacchi, "Race Regeneration and Social Purity. A Study of the Social Attitudes of Canada's English Speaking Suffragists," in Histoire sociale/Social History Volume 9, No. 22 (November 1978), page 464.

48. Bacchi, page 463.

49. Winnipeg Evening Tribune, article by Emily Ferguson Murphy titled "The Case for Sterilization", 16 January 1932.

50. Murphy, "The Case For Sterilization".

51. Emily Ferguson Murphy Papers, City of Edmonton Archives, Scrapbook 3, article titled "Birth Rate of Insane Persons Alarms Board; Sterilization Proposed."

52. Emily Ferguson Murphy, "The Case for Sterilization". And as to the chief cause of insanity, Murphy quoted the self-styled experts who identified heredity in from 75 to 90 per cent of all idiocy and imbecility.

> Heredity is the all-important factor in the cause of insanity and idiocy, parents handing down their mental characteristics in the same way that physical qualities are transmitted. About 90 percentum of our patients are victims of heredity.

53. Murphy, "The Case For Sterilization".

54. Murphy, "The Case For Sterilization".

55. Terry L. Chapman. "Early Eugenics Movement in Western Canada" in Alberta History, Vol. 25, No. 4, (Autumn 1977), page 15.

56. Vancouver Sunday Sun, article by Janey Canuck titled, "Should the Unfit Wed?", 10 September 1932.

57. Edmonton Bulletin, article titled, "Feeble-Minded Children Very Real Problem in Schools, Says Judge", 12 February 1928.

CHAPTER 5

In 1916, prodded by several members of her local chapter of the Council of Women, Murphy went to see the Attorney General for Alberta, "in an attempt to persuade him to set up women's police courts presided over by women, to try cases in which women were involved."[1] This chapter will study Murphy as a judge. The statutes under which she worked, her interpretation both of her own function and the law, and the kinds of cases she adjudicated will be examined. As well, the rulings she pronounced and the evidence for many of these rulings will be analyzed in order to gain a greater understanding of the legal process in early twentieth century western Canada as it affected the society in general and women in particular. Given Murphy's social conscience and her opinions concerning society's ills, it becomes necessary to examine and discuss whether Murphy, as a police magistrate, was dispensing objective justice or her own brand of morality. Insofar as magistrates reflect the values and mores of their time, Murphy may be said to have been typical; but her own experiences and her perceptions about society made her pronouncements especially telling.

The Order-in-Council, Number 728/16, signed by R.B. Brett, Lieutenant-Governor for the province of Alberta on 13 June 1916, appointed Emily Murphy as a Police Magistrate for the Province of Alberta with jurisdiction in and for the City of Edmonton at a salary of one hundred dollars per month.[2] Her responsibilities, as outlined in Chapter 13 of the Statutes of Alberta for 1915 (consolidated), in the Act Respecting Police Magistrates and Justices of the Peace, were to adhere to "the provisions of Part XV of Chapter 146 of the Revised Statutes of Canada (1906), being an Act of the Parliament of Canada known as the Criminal Code, and the Acts already passed

amending the same."[3] While Murphy was able to adjudicate in cases that involved both men and women, the Deputy Attorney General of Alberta, Mr. A.G. Browning, stated that:

> ... Mrs. Murphy has been appointed Police Magistrate and the wishes of the Department are that so far as possible women who are being charged separately from men, shall be tried by her...[4]

Appointed to the bench by the Deputy Attorney General of Alberta in 1916, she had been charged with judging violations of the criminal law involving women in cases of theft, drug act infractions, assault, prostitution, the keeping of a bawdy house, obstruction of justice, as well as violations of the Liquor Act and the Insanity Act. Murphy's function as a Police Magistrate in the Women's Court was not her sole jurisdiction, however, since she also became a magistrate for the Juvenile Court. This is hardly surprising since, to social reformers, the nurturing ability of the "fair sex" had as its corollary that home and hearth were central to women's proper sphere; her innate moral superiority, when extended beyond the home, would be the dynamic necessary to reform society. Therefore, a judge in a woman's court would be responsible for children; Murphy's responsibilities thus included offences committed under the auspices of the Act Respecting Juvenile Courts (1913).[5]

Although there is little evidence in the historical literature, Emily Murphy was likely chosen for the Woman's Court for two reasons. First, her family's legal background, which was clearly seen as an asset, was one of the most critical factors; her brothers were, by this time, well known barristers and her grandfather's cousin, Sir James Gowan, had been a Supreme Court Justice before his appointment to the Senate.[6] Second, she was a prominent figure in her own right, interested in the link between the law and social reform, as her involvement with the Dower legislation illustrated. Although Murphy herself felt that she may not have possessed the legal credentials for her appointment, she did feel herself to be competent and capable of

adjudicating well. The primary reason, she believed, was because of her experience with various organizations:

> I thought I knew a little about law when I took this judgeship, but I have had to learn a lot more... But the work is of intense interest and I find that all I ever thought about people, what they are or should be, and living conditions comes in useful... Legal knowledge one needs and must acquire but many women who have adjudicated for a family or club have as good a training for the bench in some particulars as lawyers.[7]

In an article for *Maclean's Magazine* titled "the Woman's Court", Murphy further remarked:

> In taking her place as a magistrate, a woman need not fret unduly about her ignorance of procedure. If she be studious, and have a teachable spirit she will find that the clerk of the court, the crown prosecutors, the Deputy Attorney-General, his solicitors, the librarian at the Law Courts, and nearly all the barristers in the city, ready to help and advise.[8]

While many persons were eager to offer "a kind of paternal interest" in Murphy's work and "on occasion... even take abuse from her right in the court-room... if they are like the fine-fibred fellows of Alberta",[9] there were those who did take exception to the presence of a woman as a judge. One Mr. E. Jackson, Barrister and Solicitor from the firm of Cormack, Mackie and Van Allen, was the subject of Murphy's first request for an apology. Dated 25 October 1917, the demand read:

> ...Sir
> I am informed that this morning in the Women's Police Court at the conclusion of the case Rex V's Nora Holt, you, in the presence of several persons made use of the following grossly insulting words -
>
> > "To hell with Women Magistrates, this country is going to the dogs because of them, I would commit suicide before I would pass a sentence like that."
>
> Unless I receive from you an unqualified apology in writing, I shall regretfully be obliged to henceforth refuse you admittance to this Court in the capacity of Counsel.[10]

Comments such as this became increasingly less common as Murphy's stint as police magistrate garnered first acceptance and later confidence:

> ... one day, I was startled to find how much the women valued their court, not as an exemplification of women's rights, but as a spiritual force in the scheme of things. I found out that at their weekly services, in the churches, they were offering prayers that all things which were pure, lovely, and of good report might be demonstrated in my life, and that I might have the requisite strength to carry on the work...[11]

It is important to remember that Murphy's maternal feminism shaped her views of her role. Her appointment introduced the concept of the moral superiority of women into the courtroom. This would provide the necessary complement to the law's coercive nature. But, Murphy also believed that the role of her court was not just to instill a moral force into the public side of society, the sphere historically controlled by men, but also to advance the rights of women. Attendant to the appointment of female judges was also the increasing involvement of women as orderlies in courtrooms, police constables, and probation officers. And Murphy stated, "This is mentioned to show that the equal status of women in police affairs is rapidly becoming established in Alberta". [12]

Upon her appointment, Murphy was provided with copies of the Acts under whose auspices she had authority. She was given also a copy of *Snow's Criminal Code* which outlined in detail each of the statutory sections of the Criminal Code and provided several examples of cases which outlined the finding in these cases, the evidence used, and the way in which the statute was interpreted in each precedent. Perhaps no other single volume would provide Murphy with as much legal knowledge as that copy of *Snow's Annotations*.

Snow's provided a concise meaning for Murphy's role:

> The justice, having heard what each party has to say, and the witnesses and evidence adduced, shall consider the whole matter, and, unless otherwise provided, determine the same and convict or make an order against the defendant, or dismiss the information or complaint as the case may be.[13]

While on the surface an apparently simple task, the actual adjudication of a

particular case was in reality much more difficult and complex. Each section (and sub-section) of every code in the combined Criminal Code had at least three interpretations and included legal precedents. Each case, therefore, had to be studied and the findings analyzed in order to apply the proper statute. For example, several definitions of what constituted prostitution existed in 1916 and several different cases were offered in *Snow's* that interpreted Section 238(i), which made prostitution or night walking a criminal offence, in particular ways. Along with these various interpretations, Murphy made notes of her own. With respect to the offence of prostitution, for example, she wrote:

> ...There is no common law definition of the term "prostitution" ... means promiscuous intercourse with men and is negatived where a magistrate finds that the intent of the accused was only that the woman should become his mistress and not bring about sexual connection between the woman and other men...[14]

Murphy's notations form a significant portion of the papers left by her estate.[15] It becomes necessary, therefore, to examine her comments and the pertinent cases to which she applied them. Of the total of 150 cases brought before Judge Murphy between October 1917 and November 1918,[16] the three most frequent problems before the Woman's Court, were Liquor Act Violations, Criminal Insanity (known simply as Insanity) and Vagrancy. An examination of some examples of each of these will enable a determination of the manner of justice meted out by Judge Murphy.

On 01 July 1916, the Alberta Liquor Act came into effect as the result of a referendum held in the previous year which supported prohibition. Many of the cases with which Murphy was to deal in her courtroom with respect to liquor offences were tried under the auspices of this Act. More important, at least for our purposes, were the levels of convictions for offences under the Liquor Ordinance Act, which preceded it:

> From 1907 to 1913 there was a significant annual increase in the per capita rate of convictions from drunkenness, for offences under the Liquor License Ordinance, and for all offences. In 1913 per capita convictions for intoxication were three times higher than 1907.[17]

Although the Fergusons, as Anglicans, had not practiced total abstinence, Emily was a member of the Woman's Christian Temperance Union which she saw as a vehicle for wider social reforms. Although she was only confronted with approximately two offences per month in her own courtroom, she was no doubt aware of the effect that liquor was having in her society; it was the cause of poverty, the wholesale abandonment of moral and social values, and was the impetus to lives of crime and violence for many immigrants and members of the working class.

Violations of the Liquor Act were by far the most common offences tried by Murphy in the 14 month period for which such records exist. The Liquor Act which prohibited the sale of intoxicating liquors fell under Sections 150 - 154 of the Criminal Code. In the 22 cases of Liquor Act violations brought before Judge Murphy, 5 defendants were charged with drunkenness, or more precisely, with being unlawfully found in an intoxicated condition in a public place. The average fine for this offence was $13.00 plus costs of the court. In four of the cases, Murphy noted only the facts of the case and did not write a memo.[18] In the fifth instance, however, she noted that Mrs. Ella Wagner, the defendant, "has been convicted of prostitution on several occasions."[19] It is unclear whether this woman's previous convictions swayed Murphy's opinion of her guilt; she did not appear to fine her more than the average, nor did she appear to have reprimanded her. The fact that she made this note at all is interesting, however, since it clearly links the woman's drunkenness with greater immorality.

Liquor Act violations involving the sale of alcoholic beverages were treated much more harshly by the code and violators were, therefore, fined more heavily; the average fine for unlawfully selling intoxicating liquor was $160.00. While Canadian

liquor law addressed drunkenness as an individual problem, the sale of liquor was treated more harshly because strict prohibition could potentially eradicate the larger social problem. Thus Murphy convicted Mrs. Blanche Michaud (the wife of the proprietor of the CN Cafe) who kept her liquor in a jug on the kitchen sink, and sold it for "25 cents for a small egg cup".[20] In another case, Murphy noted that the woman before her was the "wife of a notorious boot-legger".[21] It is probably safe to surmise that this woman was, at least in part, guilty by association. In some instances, although Murphy, while certain of the guilt of the alleged criminals who appeared before her, was unable to convict them. For example, Murphy was unable to convict a Mrs. F. Corless, but wrote in a memo: "evidence inconclusive so could not convict although convinced of her guilt."[22]

Liquor was available during prohibition and some violations of the Liquor Act involved keeping liquor in quantities greater than those allowed by the legislation; but these were the most difficult for which to gather conclusive evidence. Of the nine cases brought before Judge Murphy for this offence, four were dismissed. For those convicted, the average fine was $160.00, the same as that for the actual selling of intoxicating liquor. Oscar Lux was convicted of having in his possession, in a place other than a private dwelling, an unusual amount of intoxicating liquor; Murphy noted that "Lux is evidently a bootlegger... Has very soft white hands with a blister around one thumb from a corkscrew... Is said to be a gambler..."[23] Murphy also noted that in these nine cases, two of the defendants were Russian immigrants, while one other was a Scandinavian. Given her feelings about "foreign" immigrants, discussed earlier, this is not surprising.

Murphy was also required to preside over cases relating to "An Act Respecting Insane Persons". The whole question of insanity was problematic both for the law and for society more generally. Medicine was in its infancy when concerns regarding the mental state of humans began increasingly to become an issue. In the nineteenth

century, physicians began to concentrate on the biological causes of mental and emotional disorders. Medical experts and moral reformers began to pronounce upon the effects of sexual activity on the well-being of men and women. As early as 1897, a series of information books began to appear that dealt with questions of sex and gender role responsibilities. *What A Young Girl Ought To Know*, one title in the "Self and Sex Series", was dedicated to "the thousands of girls whose honest inquiries concerning the origin of life and being deserve such a truthful, intelligent, and satisfactory answer as will save them from ignorance, enable them to avoid vice, and deliver them from solitary and social sins".[24] These books often dealt with topics deemed to be of importance in the training of young ladies for their ultimate role as mothers:

> It is far better for the young girl at puberty to be gently active in household duties than to be lying around reading love stories. These exciting stories do her great harm, physical as well as mental. They are like forcing houses that hurry the buds into blossoms. Many little girls are being hurried into the physical development of womanhood through novel-reading... Too often at this time of life girls become sentimental, and think they should have beaux... She does not know that the new feelings she experiences are due to the awakening of her sexual nature, that she should now be even more, rather than less, guarded in her companionship.[25]

While on the surface, these comments may appear to be innocuous, they demonstrate succinctly the thinking behind the connections between the woman's mental state and her physical body. There was increasing interest in the study of gynecology; one medical text stated:

> Such terminological divisions in the classification of insanity as 'masturbational', 'ovarian', 'climacteric', 'old maids', show the recognition by psychologists of such influences. We are not now considering such morbid mental conditions as are consequences of pregnancy, labour, and lactation. These phases of adolescence and the menopause are, as I have said elsewhere, weaker links in the chain of the woman's life, which, when its strength is tested by any exceptional strain, either by the influence of the environment or her social position and surrounding circumstances, her calling or accidental occurrences, yield through some pre-existing flaw, and the sudden snap ensues.[26]

These sorts of statements on the the nature of the female reproductive system were not unusual. In fact, one French expert posited that, "it is to the ovary and the ovary alone that one has to look for the source of the fixed iliac pain of hysterics... The compression of the painful ovary frequently has a decisive effect on the convulsive attack..."[27] Medical experts believed that women were more emotional and therefore more at risk of being affected by some typical forms of mental disorders, often called neurasthenia. One superintendent of the London Asylum in Ontario from 1877 to 1902, attempted to explain the emotional nature of women. He argued that the great sympathetic system, which controlled a person's moral or emotional nature, was larger in women due to the existence of "two large organs to supply in the female which do not exist in the male, viz: the mammary glands and the uterus".[28] And anything that was wrong in the system itself or in any of the sexual organs could potentially be the cause for imbalanced behaviour or insanity. Utero-ovarian disorders were specifically "capable of causing insanity".[29]

The "Act Respecting Insane Persons", also known as the Insanity Act, was passed by Alberta's Legislative Assembly in March 1907 and, while it fell outside of the Criminal Code, it was still adjudicated by Police Magistrates. The Act, among other things, outlined the procedure to be followed in the committal of an insane person to an asylum. Attached to the Act itself, however, were eight separate forms, at least six of which were to be completed by the sentencing magistrate. Ostensibly, these

attachments served two purposes: first, they were used to establish the insanity of a person charged under the Act; and second, they were used to prevent magistrates or judges, in collusion with relatives, from taking advantage of the wealth of persons charged with insanity. The third section of the Act specifically outlined the kinds of evidence which was to be heard with reference to singular behaviours; it stated, in part:

> ...upon the person charged as afore said being brought before such justice the said justice shall proceed to hear such evidence under oath as may be adduced with reference --
> (a) To the alleged insanity of the person so brought before him, including the evidence of a duly qualified medical practitioner;
> (b) To the danger to be apprehended from his being at large...[30]

Murphy was called upon to enforce this Act as she would any other. The particular manner in which she did so, however, warrants closer examination.

Of the twenty cases of insanity brought before Murphy, two cases were dismissed; it is unclear whether this occurred due to insufficient evidence or for some other reason. Several of these cases produced extensive memos which outlined the background of those being charged, and the evidence used to establish the existence of symptoms which would warrant committal of those in custody. The vast majority of those who were finally committed were brought before the judge by members of their families (husbands, children); but in some instances physicians were involved, not only to provide assessments of mental disorders but also as initiators of legal proceedings. Perhaps the most interesting information available from the data is that all those Murphy confined to a mental institution (invariably the one that had been established in Ponoka) were women. While Murphy did adjudicate, for the most part, cases involving women, she did judge men as well. But no cases of insanity among males were brought before her for the period under study.

In at least three cases the women before her were suffering from physical ailments which, as Murphy did point out, could have caused at least some of the symptoms of insanity. In the first instance, one Mrs. Catharine Roth had an ulcerated uterus and had contracted syphilis from her husband.[31] After less than a month in custody at Ponoka, this woman died, although she had never been legally committed. (Medical opinion regarding the effects of gynecological disorders on the nervous systems of women might have led to the diagnosis that Mrs. Roth's uterine disorder may have been caused by "impaired nutrition to the brain".[32]) In the case against Mrs. Selma Botte, the accused was committed to an asylum where she was operated on for appendicitis and for a tumour.[33] Less than eight months later, the woman was released by her doctors as being cured. In this case the woman was Scandinavian, and it is unclear from the records whether she understood the gravity of the proceedings or could explain her situation. In the third case, that of Mrs Elizabeth Giebelhaus, it was noted that the woman was Russian, that she had borne 14 children, that she had been previously committed for insanity and released, and that she was suffering from Spanish Influenza.[34] Thus her delirium may have been the result of her physical ailments, rather than a manifestation of some psychological deficiency. Anything that was connected with convulsions attracted great attention, not only because the symptoms were so conspicuous, but also because convulsive disorders had, for centuries, been a part of psychopathological diseases.[35]

Two of those committed under the Insanity Act were minors. The case of Mrs. Laura St. Andrea, contained this notation:

> ... was confined 6 weeks ago, age 16, too young and frail for ordeal and after birth of child became a maniac ... is strapped to bed and likely to die shortly...[36]

But more interesting than this sad case was that of Maxine Sarasain who, at the age of 17, was charged with insanity but whose case was dismissed; Murphy noted:

> ...Persistent thief. Since 13 has been cohabitating with her step-father... 12 children, mother and step-father live in two rooms on homestead. Girl has two venereal diseases. Runs away from home in which she is placed to lead an immoral life. Extremely nervous... struck me as a victim of her environment rather than insane -- needs care and teaching.[37]

Although Murphy did not agree with the assessment of the girl's mental health, it is interesting to note that her guardians felt that "immoral" behaviour such as stealing, running away, and an incestuous relationship were symptoms of insanity.

At least three insanity cases brought before Murphy involved women in serious states of depression. Melancholia was defined as an abnormal behaviour as early as the first century, and asylums for the treatment of abnormal mental conditions had been established as early as the sixth century. By the nineteenth century, it was taken to be truth that depression was a disease and, therefore, there were medical treatments for it.[38] In the cases against Sarah Cleland and Mary Ruzuzuk, the women were in comatose states suffering from what Murphy termed "melancholia". Neither of these women provided any defence since they were either unable or unwilling to speak.[39] In the third case, which was dismissed, Murphy noted that the woman was "depressed from sordid surroundings... six persons living in a one-roomed shack".[40] In the first two cases, however, the women were committed to an institution in order to "cure" or "remedy" the ailment.

In these cases there was no indication that the individuals were "insane and dangerous to be at large". Several of the cases brought before Murphy, however, were with reference to women who were considered to be dangerous, either to themselves or to others. In the case of Adonaise Pairent, Murphy committed this woman to an asylum, because of evidence that she had appeared before the Judge in a previous case for assaulting her neighbour's children. As well, Mrs. Pairent had "almost choked Mrs. Robinson (the matron) in the cells at No. 1 Station."[41] Evidently, this woman was violent enough to warrant being locked up in Ponoka, and

a later memo, drafted by Murphy several months after the woman's committal, indicated that in the opinions of the physicians administering Mrs. Pairent, her recovery was unlikely.[42] An example of an accused woman who was dangerous to herself may be found in the case of Chelsea Logan who had a habit of running into the fields in the winter and freezing her fingers to the point where she lost the use of three of them.[43] The case of Christina Block is, perhaps, the most interesting in the entire Notebook. Murphy noted that Mrs. Block was a:

> ...nymphomaniac and masturbator -- Greek-Catholic, Austrian, married -- requires operation... has become violent gets drunk once in a while -- has acute mania.[44]

Finally, several of the women brought to her court exhibited sufficient evidence of religious mania to warrant their committal, at least according to Murphy.[45] In the case against Ethel Dawson, Murphy noted that not only did she suffer from "acute religious mania", but she appeared to be a "Russellite".[46]

Of the twenty cases brought before Murphy under the Insanity Act, eight of the women were foreign immigrants, and two were under the age of consent.[47] Since Murphy's knowledge of psychiatric medicine was not considerable, the notations she made in her Notebook are unfortunately brief but they do provide some clue to the kinds of behaviour thought to be mentally deficient. Behaviour that was amoral, immoral or extremely extraordinary, despite its cause, was sufficient to lead to committal in a mental institution.[48] The idea of the segregation of the insane stemmed from the position that social deviants required some form of incarceration, as well as possible treatment. Increasingly, it was also argued that mental degenerates were to be classified by their degrees of insanity "so that the acutely insane would not corrupt or contaminate the mildly insane".[49] It is also clear that, to some degree, insanity was linked to heredity. Question Number 31 of the "Report Into the Alleged Insanity" of a person charged under the Insanity Act (Sections 4 and 6) stated: "Has any other member of the family shown signs of insanity?"[50] In the

twenty cases brought before Murphy, she noted that four had other members of their families committed to insane asylums.

The third most frequent offence brought before Murphy fell under Section 238 (sub-sections a-j) of the Criminal Code and dealt with vagrancy. *Snow's Annotations* defined Vagrancy as follows:

> ...Everyone is a loose, idle or disorderly person or vagrant who, (a)... is found wandering abroad or lodging in any barn or outhouse, or in any deserted or unoccupied building... and not giving a good account of himself, or who, not having any visible means of maintaining himself, lives without employment...
> (b) Not maintaining family
> (c) Indecent exhibitions
> (d) Begging
> (e) Loitering on the highway
> (f) Disorderly conduct
> (g) Wanton disturbances
> (h) Destroying property
> (i) ... Being a common prostitute or night walker, wanders in the fields, public streets or highways, lanes or places or public meeting or gathering of people and does not give a satisfactory account of himself;
> (j) Supported by prostitution.[51]

Prostitution does not exist as a separate offence, but rather is dealt with under vagrancy. Indeed, according to *Snow's* , a prostitute found wandering in public places must give a satisfactory account of her presence on the street to avoid being classed as a vagrant.[52]

In this period the primary object of legislation involving Offences Against Morality was social control; but it also revealed attitudes about gender:

> ...these archetypes had their roots in early nineteenth century dogma about gender, according to which women were the guardians of social morality, the conscience of civilization; through gentle suasion, women harnessed the brutish instincts of men. Women who departed from this scenario seemed to threaten the moral foundations of society...[53]

Men were driven by strong sexual desires while women were essentially passionless. But there was a need for a class of morally unconventional women to satisfy male sexual needs. In fact, late nineteenth-century journals occasionally noted that

prostitution kept unmarried men from the more dangerous vices of masturbation and seduction, and provided husbands with sexual outlets when their wives were unwilling. They were 'distracted' from attacking pure women and their wives were protected from repeated pregnancies.[54]

By the beginning of the twentieth century, however, it had become apparent that the method of regulating prostitution was giving way to a belief in the necessity for punishment. This period saw an increasingly interventionist approach to the problem of prostitution. Legislation aimed at common prostitutes was an outgrowth of more general vagrancy laws intended to "remove indigents, persons of lewd behaviour, and other undesirables from the street.[55] Every aspect of prostitution except the actual and specific act of commercial exchange for services was prohibited. Prostitution remained a "status" offence, which did not require overt activity or behaviour before conviction.[56]

Of the eighteen cases brought before Murphy dealing with the offence of vagrancy, four cases were dismissed and while the reasons are unclear, it is likely that inconclusive evidence prevented a judgement. Of the remaining fourteen cases, three fell under Section 238(f), the sub-section that dealt with causing a disturbance "by screaming, swearing or singing, or by being drunk, or by impeding or incommoding peaceable passengers".[57] The average fine was $45.00 or three months in gaol in lieu. In these three cases, only one woman was actually sent to prison because she did not have the money to pay her fine.[58] In addition, Bertha Moldenhaus was convicted of living without a visible means of support, and she was sentenced to six months at Fort Saskatchewan.[59]

The remaining eleven cases of vagrancy fell under Section 238(i) which dealt with the inability of prostitutes or night-walkers to produce "satisfactory accounts" of themselves. The fines for this offence ranged from $4.00 to $50.00, but only in occasional cases were fines levied. In the vast majority of cases, the defendants

were remanded into the custody of Fort Saskatchewan Gaol for periods that ranged from one month to six months. Although it was never stated outright, it is quite clear that in several cases, Murphy believed these women to be prostitutes, not mere vagrants, and should be punished. The case of Annie Kairlais is illustrative. Arrested and tried on 12 April 1918, Mrs. Kairlais was sentenced to six months at McLeod Gaol with no option of a fine; Murphy noted:

> ...Aged 16. Persistent prostitute... married Kairlais and three months later had baby which was not his. It was made a ward of the Court. The girl has been given many chances but is apparently hopeless.[60]

The notes do not indicate whether the girl had given a "satisfactory account" of herself. Apparently she had not, and Murphy later noted, "I suspect that she is a drug addict."[61] It appears, then, that Murphy was convinced that the woman was a bad sort and should not have been left on the streets to further corrupt herself or others.

While the vast majority of vagrants or prostitutes were sentenced to incarceration, Murphy was also at liberty to order them to leave town. In the case of Mrs. E.J. Vance, this appeared to be a welcome alternative; Murphy noted that Vance was a

> ...Married woman, 21. "Does business" in taxicabs... known as "Little Buster". She had made an engagement to meet me that same afternoon and arrange to go somewhere away from her former associations till her husband was communicated with. She didn't keep the engagement... I hadn't ordered her to leave town but she promised me she would do so if released...[62]

In a later entry, Murphy noted that Mrs. Vance had not mended her ways:

> ...Miss Pearson of the Social Service Home reported on Saturday November 24 that in company with Mrs. Annie Salant she went to the Gibson Block to get Annie's clothes which Mrs. Vance had in her possession. A peace officer was left downstairs. On arriving at the room, they knocked. Much scuffling ensued as though someone was hurriedly dressing. After some time, they knocked again. Further delay--then a disheveled looking man opened the door and admitted them. Mrs. Vance and Jean Delaware were in bed in the room, with apparently no other clothes than light cotton vests..[63]

The Criminal Code tried to address the problem of morality; there were clauses

outlawing homosexuality, prohibition of carnal knowledge of a girl under fourteen, and the seduction of women less than 21 under the promise of marriage were all included in various places in the laws concerning morality. It has been suggested that these clauses were written into the code as early as 1896 because of the growing concern over the incidence of forcing, enticing, inveigling or otherwise procuring females for the purpose of prostitution. Reformers were very concerned that immoral behaviour was forced upon those least likely or able to defend themselves, that is, poor women and children.[64] There also appeared to be a growing sense that "fallen women" were manipulated or coerced into prostitution by the promise of marriage:

> ...We come into frequent touch with the occupants of the dens and dives of Slumdom, as one or another of these women comes to us for shelter... conditions are simply unthinkable, as to physical filth and moral degradation... a forced slavery is something above a willing slavery... of the mothers nearly three-fourths were feeble-minded and about the same proportion were absolutely alone and friendless... these poor souls are where we would be in the same circumstances and under the same influences. The Colonel's lady and Biddy O'Grady are sisters under their skin... let us remember that anybody's daughter may be placed in any one of the sets of circumstances which I illustrate...[65]

It appears that Murphy was becoming increasingly aware that the portrait of the exploited, naive, defenceless immigrant working class girl being "lured by sinister forces into a life of shame"[66], was not entirely true. She tended to offer increasingly identifiable sociological explanations for the incidences of vagrancy and prostitution, and became more inclined to label many of the prostitutes who came before her many times as incorrigible, as the case against Mrs Vance seems to illustrate.

Murphy does not appear to have accepted the view of some reformers that a certain amount of crime and vice was to be expected, in spite of the efforts of civic and law enforcement authorities.[67] In some instances, she believed that what was required was not punishment but rather a good sound "talking to". In the Juvenile Court, in the case of one Ethel Tullis, accused of being a Juvenile Delinquent, Murphy

said:

> ...I think you need a good sound thrashing, since you were 3 years old your step-mother has taken care of you. She is a good, hard-working woman, she has dressed you, worked for you and fed you and I have seen her these last months fretting and worrying about you, and you were running absolutely wild and running away from her ...you are not returning your mother anything, but are bringing disgrace and shame upon her. I hate to speak of it, but you know that one of your sisters died from leading this life, and another one of them was deported, it means disease and disgrace and death, and you know that. Now you have got to obey me, you have evaded your mother but you can't get away from me. I am going to make you a Ward of the Department and that means that you belong to the Court instead of your mother, and if you don't do as they tell you, and if you run around with these fast men ..they will lock you up. If you are not absolutely obedient, if you are flighty or stay out late at night, I shall know about it and you will be locked up...[68]

Murphy's vitriol appears to be consistent with her conception of the importance of authority and obedience in life as well as in the law.

In other cases, Murphy accepted the need for incarceration, not just to inflict punishment but also as a means to reform. She believed that "nothing in life is immoral of itself, but that it may be immorally treated."[69] The criminals, while ultimately responsible for their own actions, may have been subject to other factors which may also have been to blame:

> ... His crime is the result of his training (or more properly of his lack of training); of some hereditary slant; of baneful environment, or some other circumstance over which he had had no control, or relatively little...[70]

The most important method of reform, therefore, became the "change of residence and companies" of these criminals/victims in order for their moral selves to emerge. The criminal, if placed in an environment conducive to moral training, would become regenerated and reformed. This reformation was to occur, in the vast majority of cases, in an institution which would provide the criminal with all she needed to become a truly functioning member of society. Thus, in the prison it was necessary

to separate the immoral criminal from others. After a visit to Fort Saskatchewan, Murphy stated to Mr. McLean, Assistant Superintendent of Gaols, that she found she was " a little disappointed in the women's quarters, especially as there are no means of separating the prostitutes from those girls or women who are sent down for other offences."[71]

Although they were, in several ways, poorly equipped for the task, these institutions attempted to fulfill their role of reforming women criminals. To do this they reflected a mixture of feminine reform and traditional penal discipline that was to retrain inmates to a model of womanhood.[72] These institutions were considered to be:

> ...a starting point in their existence for all eternity, a pause in this earthly life, a time for reflection, an opportunity for new principles to be formed, holy resolutions to be made, in the strength that God alone can give... to give such moral and religious training as will induce (inmates) to form a good character and such training in domestic work as will eventually enable them to find employment, secure good homes and be self supporting...[73]

Murphy had a very strong belief in the good of such institutions:

> ... our new penal system is not based on the torture system, of which the gallows is the apotheosis, but rests upon a plan where industry and good conduct are the only negotiable capital.. where (prisoners) work out their own salvation... in a word, our new and better plan rests upon paroles and suspended sentences... [74]

Murphy's attitudes about the law and moral reform were also reflected in her role as magistrate for the Juvenile Court. The jurisdiction of the Juvenile Court was to be "... within the meaning and for the purposes of the Juvenile Delinquents Act, 1908 ... and shall have all the powers vested in a Juvenile Court under the Act, and shall also have power to try any child charged with an offence against the laws of Alberta and to deal with truants and offences under The Truancy Act".[75] Separate courts for juvenile offenders appeared to be a natural extension of the concept of separate courts for women. Child-centred reform movements had appeared in Canada in the mid-nineteenth century, but by the beginning of the twentieth, and with the rise of

other problems, many reformers were becoming aware of the importance of treating children differently from adults because of their intrinsically innocent natures. Murphy was quick to recognize the idea that the effect of the environment on children (especially because children were easily led astray when surrounded by sin and corruption) was even more important than the effect of heredity. Murphy was not unique in her beliefs regarding the necessity for juvenile courts and her opinions regarding the effect of environment on the behaviour of children. A well-known administrator of a Children's Court, Ernest K. Coulter, wrote:

> No matter how vicious and depraved are his parents, when a child enters the world he is pure and innocent. In bad surroundings physical deterioration manifests itself at once... The child is no more responsible when bad surroundings do begin to take effect that he is for the anaemia he suffers because of malnutrition and physical neglect.[76]

One particularly outspoken contributor to the *Edmonton Daily Bulletin* proclaimed: "Environment is such a positive, such a strong thing, that it whips heredity out of the ring."[77] The home life and rearing of "neglected children" had turned them to lives of crime, poverty and dependency.[78]

Murphy firmly believed her work in this area was of such critical importance that she outlined the aims of her juvenile court:

> (1) To preserve the home as a unit
> (2) To provide good homes for children who are without them
> (3) To be a real parent to the neglected or delinquent child
> (4) By reformative work outside the prisons
> (5) To punish those beasts in the human jungle who destroy children
> (6) To make the Canada of to-morrow (sic) an ideal state.[79]

The aims of the social reform movement generally - preservation of the family unit, the movement of women into the public sphere in order to effect a moral regeneration and the idea of the perfectibility of the social order in Canada - were personified in Emily Murphy. Thus she was determined to use the law not as a

punitive measure against juvenile delinquents, but rather as a reformative program aimed at seeing children charged under the Act become good, hard-working citizens:

> ... there are cases without number going to prove that while a child's antecedents have been vicious and depraved in the extreme, the boy or girl can, with proper help, rise superior to the line and be safely set upon the road to useful citizenship...[80]

Murphy was quick to recognize that the greatest amount of good for the community could be served if her sentencing powers were applied in this manner. Her comments respecting the reformation of drug addicts are indicative:

> Punishment by imprisonment or fines is, in my experience, of little use and what we need are institutions located in every province so that persons unfortunate enough to have become addicted to the habit can be properly treated and gradually weaned from its use.[81]

And Murphy's behaviour on the bench reflected this conviction; for almost every case that involved any choice other than jail, Murphy invariably chose to "reform" the defendant. In an article dated 21 February 1928, Judge Murphy commented on the vagrancy problem:

> One thing the committee (Alberta Board of Visitors for Public Institutions) emphasizes is the necessity for studying the problem of vagrants, who account for fully 40 per cent. of the jail population. Sentences of a few weeks permit of no training or reformative work for such persons. The man is returned, often after weeks of partial idleness, to society without money or occupations and frequently returns to serve another sentence...[82]

On a related issue, Murphy wrote to one Mrs. McCallum of the National Council of Women to inform her that in any attempt to reform prostitutes, the critical objective was to enable them to obtain legal counsel for a small fee; as she explained:

> At present, a girl comes out of the Court owing the man who was responsible for her fall any where from $25.00 to $400.00. This means that we have pushed her that much further down the hill by putting her into bondage to the "pimps" and white-slavers.[83]

Every effort had to be made to "get the woman out of the clutches of these evil and dangerous men" since they often led the "frightened girls" to believe that they could only expect "Time" from the Magistrate and no sympathy. Murphy felt such advice was as bad as the offence described in the Criminal Code as "living on the avails of Prostitution."[84]

She was also very conscious about the way in which laws were drafted. Her primary interest was to ensure that criminal behaviour, whatever its manifestation, was adequately addressed within the codes and statutes shaping her judgements. In 1917, one year after she had accepted the appointment to the bench, Murphy addressed a letter to Mr. A.G. Browning, Deputy Attorney-General, in which she requested changes to sub-sections A and I of Clause 238 of the Canadian Criminal Code. She urged "the extreme desirability of you requesting the Minister of Justice at Ottawa to have the words 'or herself' inserted immediately following the word 'himself' whenever it occurs".[85] In this way material evidence against prostitutes would be easier to obtain; it was, she wrote:

> ... vitally important that the police should be able to call upon any "loose, idle or disorderly person" to show that she has "visible means of maintaining herself" and that she does not "live without employment", the onus of proof being upon her as upon the male offender.[86]

As night clubs began to open in Edmonton, Murphy became aware that the means by which prostitutes would "accost" their potential clients had changed; they would meet them "at the cabarets under the cover of amusements which in themselves are legitimate."[87] Because of the absence of the word "herself" within the code, the police were unable to require these women to produce evidence about their employment; this had the effect of allowing a "great many females, many of them young girls" to maintain themselves "solely by prostitution" and it became next to impossible for the police to secure evidence even against the best-known prostitutes.[88] By simply making appropriate changes to the wording of the law, the

code would become a more effective instrument against criminal behaviour and for social control.

Years later, Murphy would just interpret the law in a particular manner and let it be known that it would henceforth be enforced in this singular way. In the Edmonton *Journal* of 28 October 1928, an article stated, in part:

> ... that mothers leaving their children exposed to the cold while they shop or do business in various city buildings will be arraigned under the Neglected Children's Act ... two cases of neglect of this sort occurring in front of the City Hall had been reported.[89]

If parents were aware of the penalties they would likely face, perhaps they would not be as casual about breaking the law as interpreted, of course, by Murphy.

Aside from her self-determined functions as a formulator and enforcer of codes of law or morality, Murphy was not loathe to involve herself in social do-gooding that went far beyond the strict bounds of her legal expertise. In this way, she could expand the limits defined by the law. Perhaps the most interesting example of Murphy's attempt to do this may be found in a marriage contract that she wrote in 1920 for a couple who were experiencing marital difficulties. Signed by Mr. and Mrs. C.W. Ladd, the contract read in part:

> I C.W. Ladd, agree that I will treat my wife kindly; will support her comfortably, and within the meaning of clause 242a of the Criminal Code of Canada will use no improper language in my home ... I, Josephine Emily Ladd, agree to these terms and that I will do my duty as a good wife and as a good housewife, and that I will use every effort to be peaceable and kind in the home and to my husband .. It is further agreed that in any dispute that we will accept the ruling of the said Emily F. Murphy and abide by it...[90]

Like many reformers, Murphy stressed the need for greater co-operation in society.

Although a much smaller issue in the larger reform movement, the establishment of some form of counselling agency to mediate disputes between husbands and wives (in much the same manner as binding arbitration), was supported by Murphy:

> (the need is)...evident when we consider how the disruption of homes, owing to the disagreement of married persons, is rapidly resulting in crime, vagrancy and unemployment, and is causing a large number of children to be chargeable to the State. There can be little doubt our Canadian provinces will see the wisdom and propriety of providing...mediatorial service.[91]

If the marriage did break down, Murphy did not support the idea of alimony for women because, in her opinion, it generated a life for them outside of marriage; moreover, the children of these broken families often became small-scale criminals who would eventually have to be punished by the state. She wrote:

> In her own home, a wife who is ill-endowed with this world's plenishings can, if she have sufficient grounds, attain to comparative comfort and improve her condition financially by leaving home. Freed from the responsibility of the household, by means of alimony, she may actually rise to the position where she is no longer "the poor relation"... She can secure excellent remuneration as a cook, a stenographer or even professionally and, strange as it may seem, prefers this alternative to the labour of extracting a difficult dollar from a difficult husband...[92]

If women were given property rights within marriage, as her support for dower legislation illustrated, women would not be required to seek paid employment outside of the home, and the family would be preserved. All laws enacted for the amelioration of the conditions of women, therefore, were for her betterment as a wife and a mother.

It was Murphy's contention that magistrates, such as herself, could best address the issues because they had their fingers on the pulse of society:

> ... a police magistrate is closer to the human side of his city than anyone in it -- or ought to be -- and sees all phases of its life...[93]

Consequently, she was convinced that she could make a difference in the amount and types of crime perpetrated in Edmonton during her stint as magistrate. It is unfortunate that the court records for the several years after 1918, during which Murphy continued to function as a Police Magistrate, no longer exist. Questions of whether she became more firm in her sentences or more lenient cannot be

examined and long term patterns of her adjudicating powers remain speculative. The examination of the cases brought before Judge Murphy between October of 1917 to November of 1918, however, does reveal her sense of justice and morality

Like most of those placed on the bench, Emily Murphy was a citizen of her time, a reflection of both her background and her culture. But did Murphy's brand of justice, and ultimately morality, differ in any significant manner from the forms of justice meted out by male Justices of the Peace and Police Magistrates for the same period? A cursory examination of the Notebooks and Arrest Sheets left by male judges indicates that Murphy's cases reveal the same sorts of evidence, findings, and fines as her male counterparts.[94] Indeed, if any differences do exist, Murphy appears to have been a bit more reticent to fine women as harshly as men for offences relatively equal in nature.[95] This may tie in to her belief that fining offenders served only to place them deeper under the influence of those from whom Murphy was trying to rid them. Thus, Murphy exhibited most of the biases and beliefs of her contemporaries. But she did not limit her reform activities to the bench. She did become involved in the lives of many of those who appeared before her, and she travelled to jails and asylums to maintain contact with them. Often, in her Notebook there were memos that dated many years after the original time of sentencing. Her dispensation of justice, however, was coloured by her personal code of morality. Murphy wanted, as a judge, to redeem the criminal; to elevate her out of the dregs into which she had fallen. As a citizen, on the other hand, she sought to redeem her entire society.

Notes - Chapter 5

1. Christine Mander. Emily Murphy: Rebel. Toronto: Simon and Pierre, 1985, page 92.

2. Order-in-Council 728/16 signed by the Lieutenant Governor Tuesday 13 June 1916, Provincial Archives of Alberta, Accession Number 70.427.

3. Statutes of Alberta, "An Act Respecting Police Magistrates and Justices of the Peace," assented to 9 May 1906, Chapter 13: pages 78-83.

4. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 24, Letter dated 12 August 1916 from A.G. Browning, Deputy Attorney-General to George Hill, Chief Constable.

5. Statutes of Alberta, "An Act Respecting Juvenile Courts," assented to 25 October 1913, Chapter 14, pages 1414 - 16.

6. Mander, Emily Murphy: Rebel, page 87. Murphy took advantage of any reunion with her family to probe their legal expertise. Her brothers were among the first to congratulate her on the appointment and Harcourt Ferguson offered this sage advice:

> Well done. In fact I say shake, Judge. The fact is that none of your brothers have yet been able to attain to a position on the bench, and as Fate had willed it that someone in the family must be a judge, you simply had to do it to save our face. Again, well done. You beat your brothers to it:.. While I am at it, Emily, be easy on 'them wimmin'. That is the only thing I am afraid of -- that you may not possess sufficient gallantry to pass over many things.

Perhaps he felt her to be naturally judgmental and less able to "pass over many things". But perhaps a more important consideration were Murphy's perceptions of women which may have prompted her brother to comment on her stridency. These perceptions have been dealt with earlier in this study and a greater discussion will follow in the course of the examination of Murphy as Magistrate.

7. Toronto Star Weekly, 24 December 1920, article titled, "A Professional Woman," page 4.

8. Emily Ferguson Murphy, "The Woman's Court." Maclean's Magazine, 1921, pages 27, 28, 46 and 74.

9. Murphy, Maclean's, page 74.

10. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 26, Letter from Emily F. Murphy to E.E.A.H. Jackson, Esq. of Edmonton.

11. Murphy, Maclean's, page 74.

12. Murphy, Maclean's, page 74.

13. A.E. Popple. Snow's Criminal Code of Canada, 4th Edition. Toronto: Carswell Company, Ltd., 1928, page 353.

14. Emily Ferguson Murphy Papers, University of Waterloo Archives, Notebook, undated, notes on definitions of statutes.

15. These are generally found in the Rare Book Room of the Archives of the University of Waterloo.

16. This time span is determined by the only surviving "Police Magistrates Notebook" left. Notebook #2, used in this study, outlined the charges, findings and fines for 150 individual cases brought before Judge Murphy.

17. Robert E. Popham and Wolfgang Schmidt. Statistics of Alcohol Use and Alcoholism in Canada, 1871-1956. Toronto: University of Toronto Press, 1958, pages 54-70.

18. In several instances Murphy would make notes about the cases upon which she adjudicated. These appeared in Police Magistrates Notebook #2 under the heading "memo." They are included here because often these notes provide some idea of the kinds of peripheral facts which would be pertinent in a particular case. As well, Murphy often followed up on several of these cases and later entries give some continuity of the lives of the affected criminals.

19. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mrs. Ella Wagner:" page 160 (13).

20. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mrs. Blanche Michaud:" page 214 (121).

21. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mrs. J. Berry:" page 215 (123).

22. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mrs. F. Corless:" page 194 (81).

23. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Oscar Lux;" page 173 (39).

24. Mary Wood-Allen. What A Young Girl Ought to Know. Philadelphia: The VIR Publishing Company, 1897, pages 168-170. See also Michael Bliss (ed.) The Wretched of Canada. Toronto: University of Toronto Press, 1971.

25. Wood-Allen, What A Young Girl Ought to Know, page 170.

26. Henry Naughton-Jones. Points of Practical Interest in Gynecology. London: Oxford University Press, 1901, page 81.

27. Gregory Zilboorg. A History of Medical Psychology. New York: W.W. Norton & Company Inc., 1941, page 364.

28. Wendy Mitchinson. "Gynecological Operations on Insane Women: London, Ontario, 1895-1901" in Journal of Social History (Spring) 1982, page 469.

29. Mitchinson, "Gynecological Operations...", page 469.

30. Statutes of Alberta, "An Act Respecting Insane Persons" assented to 15 March 1907.
Chapter 7: pages 284 - 294.

31. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mrs. Catharine Roth:" page 216 (125).

32. Mitchinson, "Gynecological Operations...," page 468.

33. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs.Mrs. Selma Botte:" page 193 (79).

34. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mrs. Elizabeth Giebelhaus:" page 300 (293). It has been documented that Spanish Influenza had reached epidemic proportions in Canada through the years 1918 and 1919 and it had killed some 50 000 Canadians. Long-term effects included the development of a Parkinsonian syndrome that manifested itself in a marked tremour.

35. Zilboorg, A History of Medical Psychology , page 397.

36. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mrs. Laura St. Andrea:" page 210 (113).

37. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Maxine Sarasain:" page 265 (223).

38. Zilboorg, A History of Medical Psychology, page 460.

39. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mary Ruzuzuk:" page 252 (197) and Rex vs. Sarah Cleland:" page 233 (159).

40. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mrs. Alma Greives:" page 204 (101).

41. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mrs. Adonais Pairent:" page 247 (187).

42. Murphy, Notebook #2, page 247.

43. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Chelsea Logan:" page 181 (55).

44. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mrs. Christina Block:" page 217 (127).

45. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mary Schubert:" page 211 (115). In the case of Rex vs. Mary Schubert, committed on 2 March 1918, it was determined that she was suffering from "religious mania" to the point of her death later in the same year at Ponoka. Murphy noted that Mary Schubert was of Polish origin but she did not indicate the nature of her acute religious mania nor did she note whether a translator had been provided by the state during the proceedings.

46. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Ethel Dawson:" page 261 (215). As precursors to modern-day Jehovah's Witnesses, the Russellites or Second-Adventists (named for their founder Charles Taze Russell) were complete millenarians whose literature was banned in Canada in 1918. Followers of this religion held that with the Second Advent of Christ to Earth, Armageddon would occur and eternal peace would follow. It is probable that Mrs. Dawson's religious expression, or at least its zeal, was a great amount of the evidence used in the case in Murphy's courtroom. See especially M. James Penton. Jehovah's Witness in Canada. Toronto: MacMillan Co. of Canada Ltd., 1976: pages 50-54 and 7-17.

47. The ethnic breakdown was:
1 Russian
2 Americans (1 eventually deported)
1 French
1 Polish
1 Scottish
2 Scandinavians
3 Austrians
3 English

48. The concept of specialized institutions for the insane, at least the form of "moral treatment" practiced in Canada, began in England in 1792 under the tutelage of the Quaker philanthropist, William Tuke, whose method of treatment was based "...on the assumption that for most cases of insanity, only one mental faculty was damaged, thus disrupting the balance of the 'emotions.' Treatment would involve reasoning with the unimpaired faculties. Moral treatment entailed the use of reward and punishment..." from L. Krasnick, "In Charge of the Loons: A Portrait of the London, Ontario Asylum for the Insane in the Nineteenth Century," in Ontario History (September, 1982) page 139. See also Wendy Mitchinson and emerging studies of Alberta Hospital at Ponoka.

49. L. Krasnick, "In Charge of the Loons," page 247.

50. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 14, "Report Under the Provisions of Sections 4 and 6 of Chapter 7 of the Statutes of Alberta, 1907" and "Warrant of Committal" for Mrs. Mary Schubert, dated 21 March 1918. See also Krasnick, page 151.

51. Snow's Annotations, pages 106-7.

52. Snow's Annotations, page 108.

53. Nicole Rafter. Partial Justice.
Boston: Northeastern University Press, 1985, page 181.

54. See especially William Acton. Prostitution. New York: Frederick A. Praeger, 1968; Martha Vicinus, "Sexuality and Power: A Review of Current Work in the History of Sexuality," Feminist Studies Vol. 8, No. 1, Spring 1982; Harry Benjamin and R.E.L. Masters, Prostitution and Morality. New York: The Julian Press, Inc., 1964.

55. Constance Backhouse. "Nineteenth Century Canadian Prostitution Law Reflection of a Discriminatory Society" in Histoire sociale/Social History, Vol. XVIII, November 1986, page 389.

56. Backhouse, page 395.

57. Snow's Annotations, page 107.

58. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Flora Pennington aka Berlaw:" page 187 (67).

59. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Bertha Moldenhaus:" page 284 (261).

60. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Annie Kairlais:" page 232 (157).

61. Murphy, Notebook#2, page 232. Murphy's study of the drug traffic in Canada led to the publication in 1922 of a series of articles that had been published in Maclean's that dealt with the "moral, physical, mental, social, curative, legal criminal, punitive, causative, historical, tragical, medical, and financial aspects of the problem," page 11. The publication of The Black Candle caused a stir nationwide as professional and lay alike were horrified at the consequences of the inability of social reform movements and the state authorities to stay the traffic in drugs. The impact of the publication was felt not only nationally, but internationally when the Secretariat of the League of Nations ordered copies of the book for each member of their committees dedicated to understanding and altering the effects of the narcotics trade. Murphy's recommendations were used as the basis for drug and narcotics laws in Canada up to 1960. For a further discussion of Murphy's views on the drug traffic, see The Black Candle and Mander, pages 102 to 105.

62. Emily Ferguson Murphy Papers, City of Edmonton Archives, Notebook #2, "Rex vs. Mrs. E.J. Vance:" page 164 (21).

63. Murphy, Notebook #2, page 164.

64. John McLaren "'White Slavers: The Reform of Canada's Prostitution Laws and Patterns of Enforcement, 1900-1920." Paper presented at the Meeting of American Society of Legal History, Faculty of Law, University of Toronto October 23-25, 1986, page 4. This article has also been published under a slightly different title in Pue, W. Wesley and Barry Wright, (eds.) Canadian Perspectives on Law and Society: Issues in Legal History. Ottawa, 1988.

65. Cook and Mitchinson, The Proper Sphere, pages 243-246.

66. McLaren, "White Slavers," page 4.

67. Backhouse, "Nineteenth Century Canadian Prostitution Law," page 391.

68. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 10, "Her Worship to Ethel Tullis," 17 January 1917.

69. Emily Ferguson Murphy. "Concerning Obscene Literature," in The Municipal Review of Canada. Toronto, page 2, 328.

70. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 18, letter from Emily Murphy to Mr. McLean, Ass't. Superintendent of Gaols, dated 5 July 1918.

71. Emily Ferguson Murphy. "The Death Sentence" in the Canadian Home Journal, March 1916, page 140.

72. Estelle Freedman. Their Sisters Keepers Women's Prison Reform in America, 1830-1930. Ann Arbor: University of Michigan Press, 1986, page 88.

73. Freedman, page 89.

74. Emily Ferguson Murphy. "The Death Sentence," in the Canadian Home Journal, March 1916, page 140.

75. "An Act Respecting Juvenile Courts," page 1415.

76. Ernest K. Coulter. The Children in the Shadow.
College Park, Maryland: McGrath Publishing Company, 1913, page 44.

77. Quoted in Rebecca Coulter, "Alberta's Department of Neglected Children, 1909 - 1929: A Case Study in Child Saving', Unpublished M.Ed. Thesis, University of Alberta, 1977, page 52 n20,

78. Coulter, page 37.

79. Maclean's Magazine, page 74.
This opinion, while it may have emerged from Murphy's own experience with the law and juvenile offenders, was also reflected by Section 31 of the 1908 Juvenile Delinquents Act which stated:

> This Act shall be liberally construed to the end that its purpose may be carried out, to wit: That the care and custody and discipline of a juvenile delinquent shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help and assistance.

80. Maclean's, page 47.

81. Maclean's Magazine, 1 October 1920, Volume XXXIII, no. 18, article entitled "A Straight Talk on Courts."

82. Calgary Albertan, 21 February 1928, article entitled "Alberta Jails Well Conducted."

83. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 22, letter from Emily Murphy to Mrs. McCallum, dated 29 September 1918.

84. Murphy, letter to Mrs. McCallum.

85. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 22, letter from Emily Murphy to A.G. Browning, Deputy Attorney-General , dated 16 April 1917.

86. Murphy, letter to A.G. Browning.

87. Murphy, letter to A.G. Browning.

88. Murphy, letter to A.G. Browning.

89. Edmonton Journal, article entitled "Magistrate says Mothers Cannot Leave Children.", 28 October 1928

90. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 9, Marriage contract between Mr. C.W. Ladd and Mrs. Josephine Emily Ladd, dated 15 July 1920 and witnessed by Judge Emily F. Murphy.

91. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 33. Unpublished article titled "About Marriage Settlements. Shall the State Afford Mediatorial Service?", n.d., page 4.

92. Murphy, "About Marriage Settlements", page 6.

93. Maclean's, "A Straight Talk on Courts," 1920.

94. Although Murphy was never required to try with a jury, because she was only a Police Magistrate, the functions of a jury in a case were given by Judge Frederic A. Morrison of the Supreme Court of Alberta, who instructed the jury under his tutelage: "...I feel I must recall to your minds the issue presented to you for decision and responsibility which the law places on you. You are not sitting as a court of morals to pass upon the conduct of the accused but solely and simply to say whether or not the facts disclosed by the evidence, and taking the law as I have explained it to you, the accused is guilty or innocent of the offence charged," in Maclean's Magazine 15 November 1924, article entitled "In the House of His Friends." It is very likely that Judge Morrison also felt that this was the way in which he should also conduct his adjudication of the cases brought before him.

And with respect to particular cases adjudicated by male Police Magistrates that resemble those adjudicated by Murphy, see for example: Department of Attorney General - Administrative Services Division, Magistrates Notebooks, Provincial Archives of Alberta Accession Number 83.325, Box 2, "Notebook of Police Magistrate P. H. Belcher". In the information and complaint of 23 July 1923, against Mr. St. Pierre Goucher of Callahoo Lake, the notation is made that the accused "did unlawfully have intoxicating liquor in his possession in a place other than the private dwelling house in which he resides". Mr Goucher was found guilty and fined $50.00 plus costs. See also the information of Truant Officer Robert Baker in the information against David Rowland in the court of Police Magistrate Crispin E. Smith of 7 February 1916, who stated "that (the defendant) did refuse or neglect to provide the necessary education for his son, Willie Rowland, and daughter, Janet Rowland, contrary to the School Ordinance". The magistrates notes in the case indicate that the children were not allowed to attend school on pain of beating by their father.

And with respect to the kinds of notes taken by magistrates in the information sections of their notebooks, see Provincial Archives of Alberta Accession Number 83.325, Box 1. In the notes of one case against Allen Morcni of 27 June 1929 accused of speeding, it was noted that "the defendant wears glasses". In a similar case for the same offence, in the courtroom of one Judge Cal Hunter, the defendant Nels Hembre, "hadn't a leg to stand on" although the Judge conceded that he was "a clean-cut looking fellow".

But by far the most interesting cases in the Notebooks of male Police Magistrates are those in the Provincial Archives of Alberta Accession Number 86.285, the notebooks of Justice James Duncan Hyndman who was appointed to the Supreme Court of Alberta from 1916 until he was appointed to the Appellate Division in 1921. Between the dates of 1 April 1920 to 28 April 1920, Mr. Justice Hyndman heard 8 cases for divorce in his courtroom. The vast majority of these, at least six cases, involved the battery of the wife or desertion by the husband of the wife and children of the marriage. In all cases, at least some kind of violent alcoholic behaviour was evident. In the case of Mary Hall vs. Earl Terrence Hall, for example, the grounds for the divorce was Desertion. The facts of the case, with evidence provided by Mrs. Hall, were noted in the Judge's Notebook: "...he has a dreadful temper, drank a lot... he threatened me - when drunk he beat me... he was hardly ever sober... I was to keep myself and the little ones quiet all the time...". It is unclear what the outcome of the case was.

95. See for example: Department of Attorney General - Administrative Services Division, Magistrates Notebooks, Provincial Archives of Alberta Accession Number 83.325, Box 2, "Notebook of Police Magistrate W.S. Davidson". In the summons of 20 March 1916, Licence Inspector Delmar Hodgkins provided material evidence: "that...Kwong Man Chong of Calgary...did unlawfully keep liquor for the purpose of sale, barter or traffic therein without having the license therefor by law required, contrary to Section 81 of the Liquor License Ordinance". Mr. Chong was fined the incredible sum of $94.00 plus costs or 60 days in lieu. It is unknown which he chose to do. See also Thorner, Thomas and Neil Watson, "Keeper of the King's Peace: Colonel G.E. Sanders and the Calgary Police Magistrate's Court, 1911 - 1932," Urban History Review, 1984.

CHAPTER 6

By the 1920s, the moral reform movement had all but disappeared. Although reforms like prohibition and women's suffrage had been introduced, it seemed clear that they had not produced Canada's moral regeneration. Moreover, the attainment of women's suffrage had not really furthered the political rights of women; Carol Bacchi has noted the views of a Manitoba suffragist, Anne Anderson Perry:

> ...The franchise, she felt, had changed very little. Few women participated in politics, as workers or candidates. Most followed or deferred to men much as they had before. Women, of course, attended political conventions, decorated platforms, and helped male politicians achieve victory, but they continued to take a secondary place to men. There were certainly exceptions, women whose able contribution to public life made conspicuous the absence of larger numbers. Moreover, women seemed indifferent to the great issues which had preoccupied their pre-war interests -- child welfare, industrial distress, social and moral reform. Female enfranchisement, she concluded, had simply doubled the electorate and had made no noticeable difference in its character.[1]

The decade of the Twenties saw the consolidation of political gains which had been made, but even Emily Murphy saw that the Persons Case was not a feminist victory.

> In this connection it should be made clear that we are not considering the pronouncement of the privy council as standing for a sex victory but rather as one which will now permit of our saying "we" instead of "you", in all affairs of state.[2]

Others believed that very little had been accomplished. One Bride Broder, writing to the editor of the *Toronto Mail and Empire*, put it succinctly:

> (this)...does not alter our opinion that it would be well for the women who clamored for the vote (and who prophesied the millennium in municipal, Provincial and Federal affairs when that vote should be granted)... If women had used the power already in their hands intelligently and forcefully, it would be impossible at this date -- ten years after their enfranchisement -- for any government to shelve an issue in which the women of all parties were vitally interested.[3]

And the noted feminist Charlotte Whitton was to observe in 1946:

> ...Of course, certain Canadian women were valiant warriors for the vote for over a quarter of a century... The more vigorous fighters were western women. The women leaders, however, were in most cases primarily sworn to some other cause in the furtherance of which they found the ballot essential.[4]

In their examination of the woman question, American historians William O'Neill and Aileen Kraditor have argued that the reformers were so intent on preserving the family that they were unable to address the task of achieving sexual equality.[5] Moreover, as Eliane Silverman suggests, they did not challenge capitalist or patriarchal economic and social structures:

> Ignoring circumstances such as repressive marriage laws and inadequate economic opportunity, the reformers recognized women only as mothers. With women powerless to help themselves in a legal and economic system which subjugated them, the state and society could intervene for the maintenance of family ties in its own interest.[6]

But before we place too a heavy a blame on women reformers, it is important to understand who they were and what they were attempting to accomplish. Carol Bacchi has suggested that these women were similar in several ways: most were educated middle-class professionals; all were well-to-do; in short, they were members of the Anglo-Protestant elite in Canada.[7] They were generally maternal feminists who believed that the proper sphere for women must be extended beyond the home into the larger society; this moral purity was necessary for public service and to shape social change. Individual moral problems, not capitalism or patriarchy, were seen as the cause of social problems. Thus, the reformers were not interested

in fundamentally restructuring Canadian society, as Wayne Roberts has concluded:

> So the female suffragists did not fail to effect a social revolution for women; the majority never had a revolution in mind. They remained aware of the women's side of things and worked to see women better protected and better appreciated for their traditional functions. But their motivations were really determined by their membership in a social elite which saw the need to regulate society's future and hoped the family would remain the foundation of that future.[8]

Emily Murphy was no exception. She saw her primary role as wife and mother; but she also insisted that "there is no reason for burning incense to a woman simply because she has fulfilled the natural functions of her sex -- because she has been no skulker of her maternal responsibility".[9]

Women had a duty to provide a social spring cleaning to society in order to cleanse it of evil. Her involvement in the affairs of state and in the courtroom revealed that. While a moral reformer, as her participation in both the prohibition and suffrage movements indicate, she also believed that the law could be used to save Canadian society. It could be geared toward the preservation of the family; it could strengthen moral values and it could impose social control on deviant groups. But women had to gain the power to change the legal process, a traditionally male preserve, for the betterment of society; the National Council of Women in Canada argued that:

> It is on this account that women today say to the governments of the world: you have usurped what used to be our authority, what used to be our responsibility... It is you who determine when, and how long, and what our children are to be taught and what their prospects as future wage earners are to be. It is you who condone or stamp out the white slave traffic and the starvation wage. It is you who by granting or refusing pensions to the mothers of young children can preserve or destroy the fatherless home. It is you who consider what action shall be considered a crime and how the offender, man, woman, or child shall be dealt with... And since all of these matters strike at the very heart strings of the mothers of all nations, we shall not rest until we have secured the power...[10]

For Murphy this was of critical importance. The law had to protect women and children; the family had to be preserved so that the larger society could be preserved.

Murphy's background shaped her views; her Anglican and Tory upbringing probably gave her a pessimistic view of the nature of humanity. As a result the law was necessary to impose the social control so necessary to stability. She also believed in the organic nature of society:

> ...no longer should we concern or content ourselves with the mere re-shuffling of the matrimonial cards in that old and ever odious game popularly described as "beggar my neighbour". The whole position should be summed up in three words: comity of interests. There should no longer be occasion for what is now called "feminism" or the "woman's movement"...[11]

Reform could restore this balance. With this set of attitudes and values, and a personality which pushed her towards reforming Canadian society, Emily Murphy attempted to make a difference.

As part of the reforming element of early western Canada, Murphy shared with other reformers the notion that "moral suasion" and the use of religion to alter the increasingly devastating problems confronted by society was ineffective; instead she advocated, vitriolically and often unequivocally, the need for institutions to guide and direct the change required for Canada to fully experience its great potential. Regulation of marriage, divorce, child welfare, economic development, immigration, and even family relations would go far to effecting the necessary reforms. Murphy may be considered a precursor to the larger shift of the Canadian intelligentsia from basing reform on religion when seeking individual reform to emphasizing scientific thought and using government to effect social change. As Douglas Owram has outlined:

> For these intellectuals it was not enough to criticize government and wait for it to respond. Rather, it was their view that modern conditions, in particular the rise of an industrial economy, demanded not only a much enlarged state but also new expertise in running the nation... For the intellectuals the answer was increasingly clear.... Concomitant with the rise of the modern state, therefore, was a concerted drive on the part of a new elite to assert its importance as an agent of reform.[12]

By 1945, "government departments and agencies had expanded to include bodies like the Bank of Canada (to protect our money), the Canadian Broadcasting Corporation (to protect our souls), and the Department of Health and Welfare (to protect everything in between)."[13] While Murphy did not live to see the fruits of her labour, the increase in government spending and the massive increase in the civil service dedicated to reform, she may be considered one of the antecedents to this movement.

Although Emily Murphy's experiences do not reflect the condition of a majority of women in this period, they do illustrate the experiences of many women of the reforming mold. But in order to ensure reform, Murphy, the Tory, was prepared to utilize the coercive power of the state to remake, remodel and reorder society. Like her colleague and friend, Charlotte Whitton, Murphy believed that government should assure minimum social standards and that reforms should be carried out by experts and professionals. Yet she remained the talented amateur in the area of social reform - a role that was becoming increasingly anachronistic by the 1920s. Thus Emily Murphy can be said to personify the strengths and weaknesses of the social reform movement in early twentieth century western Canada.

Notes - Chapter 6

1. Carol Lee Bacchi. Liberation Deferred? The Ideas of the English-Canadian Suffragists, 1877 - 1918. Toronto: University of Toronto Press, 1983, page 144.

2. Edmonton Bulletin. "Privy Council Decides Women Are Eligible for Canadian Senate", 18 October 1929.

3. Toronto Mail and Empire. "Women in the Senate", 8 February 1929.

4. Charlotte Whitton, "Is the Canadian Woman a Flop in Politics", in The Proper Sphere. Ramsay Cook and Wendy Mitchinson (eds.). Toronto: Oxford University Press, 1976, page 329.

5. See especially Everyone Was Brave by William O'Neill (Chicago, 1971) and Up From the Pedestal by Aileen Kraditor (Chicago, 1968).

6. Eliane L. Silverman. "Writing Canadian Women's History, 1970 - 82: an Historiographical Analysis" in The Canadian Historical Review, Vol. LXIII, No. 4, 1982, page 516.

7. Carol Bacchi. Liberation Deferred? Toronto: University of Toronto Press, 1983, page 13.

8. Wayne Roberts. "Rocking the Cradle for the World: The New Woman and Maternal Feminism, Toronto 1877-1914" in A Not Unreasonable Claim by Linda Kealey (ed.) Toronto: Women's Educational Press, 1979.

9. Canadian Home Journal, May 1931, article by Emily F. Murphy entitled "Mothership".

10. Carol Bacchi. Liberation Deferred? Toronto: University of Toronto Press, 1983, page 13.

11. Emily Ferguson Murphy Papers, City of Edmonton Archives, Box 1, File 33. Unpublished article titled "About Marriage Settlements. Shall the State Afford Mediatorial Service?", n.d., page 1.

12. Douglas Owram. The Government Generation: Canadian Intellectuals and the State 1900 - 1945. Toronto: University of Toronto Press, 1986, pages x - xi.

13. Owram, page ix.

BIBLIOGRAPHY

Primary Sources

Emily Ferguson Murphy Papers, University of Waterloo Archives, Rare Book Room
Notebook, undated.

Emily Ferguson Murphy Papers, City of Edmonton Archives.

Police Magistrates Notebook #2.
Papers - Personal Letters, Box 1, Files 1 through 28.
Report Card For Emily Ferguson, 1886.

Articles

"Are Parents What They Used To Be", Box 1, File 35.
"Mothership" in the Canadian Home Journal, May 1931.
"The School Library in Alberta", Box 2, File 59.
"Immigration", Box 1, File 43.
"All We Like Sheep: A Study in Migration", Box 1, File 34.
"About Marriage Settlements: Shall The State Afford Mediatorial Service?", Box 1, File 35.
"Partnership in Marriage", Box 1, File 50.
"An Act Respecting the Rights of Married Women in the Estates of Their Deceased Husbands", Box 1, File 25.
"Mothers and Birth Control", Box 1, File 47.
"The Case For Sterilization", Scrapbook 3.
"Birth Rate of Insane Persons Alarms Board; Sterilization Proposed", Scrapbook 3.
"Social Hygiene - Who Pays?", Scrapbook 2.
"Should the Unfit Wed?", Scrapbook 3.
"Feeble-minded Children Very Real Problem in Schools,Says Judge", Scrapbook 3.
"A Professional Woman", Scrapbook 3.
"The Woman's Court", Scrapbook 3.
"Alberta Jails Well Conducted", Scrapbook 3.
"Magistrate Says Mothers Cannot Leave Children", Scrapbook 3.
"A Straight Talk on Courts", Scrapbook 2.
"Gold: Its Use and Abuse", Box 1, File 40.

Books

The Black Candle
Toronto: T. Allen Company, 1922.

Janey Canuck in the West.
Toronto: J.M. Dent & Sons, Ltd., 1975.

Open Trails.
Toronto: Cassell and Company, Ltd., 1912.

Our Little Canadian Cousin of the Great Northwest.
Boston: L.C. Page & Company, 1923.

Seeds of Pine.
Toronto: Hodder and Stoughton, 1914.

The Impressions of Janey Canuck Abroad.
Toronto: 1902.

Department of the Attorney-General, Administrative Services Division, Magistrates Notebooks, Provincial Archives of Alberta, Accession Number 83.325, Box 2,

"Notebook of Police Magistrate P.H. Belcher".

"Notebook of Justice James Duncan Hyndman" - Supreme Court of Alberta.

"Notebook of Judge Cal Hunter".

Secondary Sources

Acton, Janice and Penny Goldsmith and Bonnie Shepard (eds.) Women at Work Ontario, 1850-1930. Toronto: Canadian Women's Educational Press, 1974.

Acton, William. Prostitution Considered in Its Moral, Social and Sanitary Aspects in London and Other Large Cities and Garrison Towns with Proposals for the Control and Prevention of its Attendant Evils. London: Frank Cass and Co. Ltd., 1857.

Allen, Judith. "Contextualizing Late-Nineteenth-Century Feminism: Problems and Comparisons", Journal of the Canadian Historical Association, Volume 1, Victoria, 1990, pages 17-36.

Allen, Richard. The Social Passion.
Toronto: University of Toronto Press, 1971.

Andersen, Margret. Mother Was Not A Person.
Montreal: Black Rose Books, 1972.

Anson, Peter F. Building Up the Waste Places.
Bedfordshire: The Faith Press, 1973.

Ariès, Philippe. Centuries of Childhood.
New York: Vintage Books, 1962.

Artibise, Alan F.J. Western Canada Since 1870.
Vancouver: University of British Columbia Press, 1978.

Avery, Donald. Dangerous Foreigners.
Toronto: McClelland and Stewart Limited, 1979.

Bacchi, Carol. "Race Regeneration and Social Purity. A Study of the Social Attitudes of Canada's English Speaking Suffragists," in Histoire sociale/ Social History Volume XI, No. 22 (November 1978), pages 460-474.

_____. Liberation Deferred? The Ideas of the English-Canadian Suffragists, 1877-1918.
Toronto: University of Toronto Press, 1983.

Backhouse, Constance. "Desperate Women and Compassionate Courts: Infanticide in Nineteenth Century Canada," Unpublished draft copy, 1983. G6372.

_____. "Involuntary Motherhood: Abortion, Birth Control and the Law in Nineteenth Century Canada," Unpublished draft copy, 1983. G6371.

_____. "Nineteenth Century Canadian Divorce Law: Shoring up the Patriarchal Family," Unpublished draft copy, 1983. G6373.

_____. ""Nineteenth Century Canadian Prostitution Law: Reflection of Discriminatory Society," Histoire sociale/Social History, Vol XVIII, No. 36, (November 1985) pages 387 - 423.

Bassett, Isabel. The Parlour Rebellion.
Toronto: McClelland and Stewart Limited, 1975.

Bedford, Judy. "Prostitution in Calgary, 1905-1914,"
Alberta History, 29 (Spring, 1981).

Benjamin, Harry. Prostitution and Morality.
New York: The Julian Press, Inc., 1964.

Bercuson, David J. (ed.) Western Perspectives 1.
Toronto: McClelland and Stewart Limited, 1967.

_____. David J. and L.A. Knafla. Law and Society in Canada in Historical Perspective. Calgary: University of Calgary Press, 1979.

Berger Carl, (ed.) Approaches to Canadian History.
Toronto: University of Toronto Press, 1979.

_____. Science, God and Nature in Victorian Canada.
Toronto: University of Toronto Press, 1983.

_____. The Sense of Power.
Toronto: University of Toronto Press, 1970.

Bliss, Michael (ed.) The Wretched of Canada.
Toronto: University of Toronto Press, 1971.

_____. A Canadian Millionaire.
Toronto: Macmillan of Canada, 1978.

Bradbury, Bettina, "Women's History and Working-Class History",
Labour/ Le Travail, Vol. 19, (Spring 1987), pages 23 -43.

Brown, Robert Craig. Robert Laird Borden.
Toronto: Macmillan of Canada, 1975.

Bull, William Perkins. From Strachan to Owen.
Toronto: George J. McLeod, 1938.

Burke, Edmund. Reflections on the Revolution in France.
New York: Holt, Rinehart and Winston, 1965.

Burnet, Jean R. and Howard Palmer. "Coming Canadians": An Introduction to a History of Canada's Peoples. Toronto: McClelland and Stewart, 1988.

Butler, Anne M. Daughters of Joy, Sisters of Misery.
Urbana: University of Illinois Press, 1985.

Cassel, Jay. The Secret Plague: Venereal Disease in Canada 1838-1939.
Toronto: University of Toronto Press, 1987.

Cavanaugh, Catherine Anne. "The Women's Movement in Alberta As Seen Through the Campaign for Dower Rights 1909 - 1928". Unpublished M.A. Thesis, University of Alberta, 1986.

Chapman, Terry L. "Early Eugenics Movement in Western Canada" Alberta History, Vol. 25, No. 4 (Autumn 1977), pages 9-17.

Chunn, Dorothy. "Maternal Feminism, Legal Professionalism and Political Pragmatism: The Rise and Fall of Magistrate Margaret Patterson, 1922-34," in Pue and Wright, Canadian Perspectives on Law & Society: Issues in Legal History.
Ottawa: Carleton University Press, 1988, pages 91-117.

Clark, S.D. Church and Sect in Canada.
Toronto: University of Toronto Press, 1948.

Clark, Samuel D., J. Paul Grayson and Linda M. Grayson (eds.) Prophecy and Protest: Social Movements in Twentieth Century Canada. Toronto: Gage Educational Publishing Limited, 1975.

Cleverdon, Catherine L. The Woman Suffrage Movement in Canada.
Toronto: University of Toronto Press, 1974.

Cook, Ramsay and Wendy Mitchinson (eds.). The Proper Sphere.
Toronto: Oxford University Press, 1976.

Cook, Ramsay. The Regenerators.
Toronto: University of Toronto Press, 1985.

Cott, Nancy F. The Grounding of Modern Feminism.
New Haven: Yale University Press, 1987.

Coulter, Ernest K. The Children in the Shadow.
College Park, Maryland: McGrath Publishing Company, 1913.

Coulter, Rebecca. "Alberta's Department of Neglected Children, 1909 - 1929: A Case Study in Child Saving". Unpublished M.Ed. Thesis, University of Alberta, 1977.

Courtney, C.P. Montesquieu and Burke.
Oxford: Basil Blackwell & Mott, Ltd., 1963.

Cronon, William and Howard R. Lamar, Katherine G. Morrissey and Jay Gitlin. "Women and the West: Rethinking the Western History Survey Course", in The Western Historical Quarterly, Vol. XVIII, No. 3 (July 1986), pages 269 - 290.

Denison, G.T. Recollections of a Police Magistrate.
Toronto: The Musson Book Company, 1920.

D'Emilio, John and Estelle B. Freedman. Intimate Matters.
New York: Harper & Row, 1988.

Dranoff, Linda Silver. Women in Canadian Law.
Toronto: Fitzhenry and Whiteside, 1977.

Edwards, Henrietta Muir. Legal Status of Canadian Women.
Calgary: National Council of Women of Canada, 1908.

Elliot, John Leonard. Two Nations, Many Cultures.
Scarborough, Ontario: Prentice-Hall of Canada, 1979.

Evans, Richard. The Feminists.
London: Croom Helm Ltd., 1979.

Fahey, Curtis. "A Troubled Zion: The Anglican Experience in Upper Canada, 1791 - 1854." Unpublished Ph.D. Thesis, Ottawa: Carleton University, 1981.

Federated Women's Institutes of Canada. Report of the Eighteenth Biennial Convention. Fort Garry, Manitoba: 1933.

Finlay, J.L. and D.N. Sprague. The Structure of Canadian History.
Toronto: McClelland and Stewart Limited, 1982.

Firestone, O.J. Canada's Economic Development 1867-1953.
London: Oxford University Press, 1958.

Fowler, Marian. The Embroidered Tent.
Toronto: Anansi Press Limited, 1982.

Francis, R. Douglas and Howard Palmer (eds.) The Prairie West.
Edmonton, Pica Pica Press, 1985.

Franklin, Ursula Martius. Knowledge Reconsidered: A Feminist Overview.
Ottawa: Canadian Research Institute for the Advancement of Women, 1984.

Freedman, Estelle. Their Sisters' Keepers: Women's Prison Reform in America, 1830-1930. Ann Arbor: University of Michigan Press, 1981.

Friesen, Gerald. The Canadian Prairies: A History
Toronto: University of Toronto Press, 1984.

Gibbon, John Murray. The Victorian Order for Nurses in Canada.
Montreal: Southam Press, 1947.

Gilbert, Alan D. Religion and Society in Industrial England.
London: Longman Group Limited, 1976.

Goldman, Marion S. Gold Diggers & Silver Miners.
Ann Arbor: University of Michigan, 1981.

Gordon, Lorraine. "Doctor Margaret Norris Patterson: First Woman Police Magistrate in Eastern Canada - Toronto - January 1922 to November 1934," in Atlantis, Volume 10, Number 1 (Fall 1981), pages 95-109.

Gowan, Ogle. Orangeism: Its Origin and History.
Toronto: Lovell and Gibson, 1859.

Grant, John Webster. The Church in the Canadian Era.
Burlington, Ontario: Welch Publishing Co. Ltd., 1988.

_____. A Profusion of Spires: Religion in Nineteenth Century Ontario.
Toronto: Province of Ontario, 1988.

Grey, James. Booze: The Impact of Whisky on the Prairie West.
Toronto: Macmillan of Canada, 1972.

Griffiths, Curt T. and John F. Klein and Simon N. Verdun-Jones.
Criminal Justice In Canada. Toronto: Butterworth Co. Ltd., 1980.

Guest, Dennis. The Emergence of Social Security in Canada.
Vancouver: University of British Columbia Press, 1980.

Gusfield, Joseph. Symbolic Crusade.
Urbana: University of Illinois Press, 1963.

Hayden, Dolores. The Grand Domestic Revolution.
Cambridge, Mass.: MIT Press, 1981.

Hazlitt, Henry. The Foundation of Morality.
Princeton: D. Van Nostrand Company, Inc., 1964.

Henderson, Charles Richmond. Social Elements.
New York: Charles Scribner's Sons, 1913.

Homel, Howard. "Denison's Law: Criminal Justice and the Police Court in Toronto, 1877-1911," in Ontario History, Volume LXXIII, Number 3, 1981, pages 171- 186.

Houston, Cecil J. and William J. Smyth. The Sash Canada Wore: A Historical Geography of the Orange Order in Canada. Toronto: University of Toronto Press, 1980.

Jackel, Susan (ed.) A Flannel Shirt and Liberty.
Vancouver: University of British Columbia Press, 1982.

_____. "Introduction" to Wheat and Woman by Georgina Binnie-Clark.
Toronto: University of Toronto Press, 1979.

Jamieson, F. C. "Edmonton Courts and Lawyers in Territorial Times".
Alberta Historical Review, IV (1956), pages 3 to 9.

Johnson, J.K. Becoming Prominent.
Kingston, Ontario: McGill-Queen's University Press, 1989.

Kealey, Linda (ed.) A Not Unreasonable Claim.
Toronto: Women's Educational Press, 1979.

Klassen, Henry C. "In Search of Neglected and Dependent Children: The Calgary Children's Aid Society, 1909-1920," in Alan F. J. Artibise (ed.) Town and City: Aspects of Western Canadian Urban Development, published by the Canadian Plains Research Centre, Regina: University of Regina, 1981.

Knafla, Louis A. Crime and Criminal Justice in Europe and Canada.
Waterloo, Ontario: Wilfrid Laurier University Press, 1981.

Leon, Jeffrey S. "The Development of Canadian Juvenile Justice: A Background for Reform," in the Osgood Hall Law Journal, published by the Osgood Hall Law School of York University, Toronto, 1977.

Light, Beth and Joy Parr (eds). Canadian Women on the Move. Toronto: New Hogtown Press, 1983.

Light, Beth and Veronica Strong-Boag (eds.). True Daughters of the North. Toronto: OISE, 1980.

MacGregor, James G. Edmonton: A History. Edmonton: Hurtig Publishers, 1967.

MacKirdy, K.A., J.S. Moir, Y.F. Zoltvany (eds.) Changing Perspectives in Canadian History. Don Mills, Ontario: J.M. Dent & Sons (Canada) Limited, 1971.

Macleod, R. C. "The Shaping of Canadian Criminal Law, 1892 - 1902", in the Canadian Historical Association Historical Papers, 1978.

Mander, Christine. Emily Murphy: Rebel. Toronto: Simon & Pierre, 1985.

Marquis, Greg. "The Contours of Canadian Urban Justice, 1830-1875," in Urban History Review/ Revue d'histoire Urbaine. Volume XV, No. 3 (February 1987), pages 269-273.

Martin, Theodora Penny. The Sound of Our Own Voices Women's Study Clubs 1860 - 1910. Boston: Beacon Press, 1987.

McClung, Nellie. In Times Like These. Toronto: University of Toronto Press, 1972.

McCuaig, Katherine. "From Social Reform to Social Service" The Canadian Historical Review, Vol. LXI, No. 4, 1980, pages 480 to 501.

McHugh, Paul. Prostitution and Victorian Social Reform. New York: St. Martin's Press, 1980.

McLaren, Angus. "Birth Control and Abortion in Canada, 1870-1920". The Canadian Historical Review, Vol. LIX, No. 3, 1978, pages 319-340.

McLaren, Angus and Arlene Tigar McLaren. The Bedroom and the State: The Changing Practices and Politics of Contraception and Abortion in Canada, 1880-1980. Toronto: McClelland and Stewart Limited, 1986.

McLaren, John: "White Slavers: The Reform of Canada's Prostitution Laws and Patterns of Enforcement, 1900-1920." Presentation Paper, American Society for Legal History, October 1986.

McLean, R. "A Most Effective Remedy--Temperance and Prohibition in Alberta, 1875-1915." Unpublished M.A. Thesis, University of Calgary, 1969.

McLeod, Hugh. Class and Religion in the Late Victorian City. London: Croom Helm, 1974.

Mewett, A. W. "The Criminal Law, 1867 - 1967". The Canadian Bar Review, XLV (1967), pages 725 to 740.

Miles, Angela and Geraldine Finn. Feminism in Canada: From Pressure to Politics. Montreal: Black Rose Books, 1982.

Mills, David. The Idea of Loyalty in Upper Canada, 1784-1850. Kingston and Montreal: McGill-Queen's University Press, 1988.

Mitchinson, Wendy and Janice Dickin McGinnis (eds.) Essays in the History of Canadian Medicine. Toronto: McClelland and Stewart Limited, 1988.

Mitchinson, Wendy. "Medical Perceptions of Female Sexuality: A Late Nineteenth Century Case," in Scientia Canadensis, Volume IX, No. 2 (June) 1985, pp. 67-81.

____. "A Medical Debate in Nineteenth-Century English Canada: Ovariotomies," in Histoire sociale/ Social History Volume 17 (May 1984), pages 133-147.

_____. "R.M. Bucke: A Victorian Insane Asylum Superintendant," in Ontario History, Volume XIII, Number 4 (December), 1981, pages 239-254.

Moir, John. The Church in the British Era. Toronto: McGraw-Hill Ryerson, 1972.

Moyles, R. G. and Doug Owram. Imperial Dreams and Colonial Realities: British Views of Canada, 1880 - 1914. Toronto: University of Toronto Press, 1988.

National Council of Women of Canada. The Year Book. Toronto: G. Parker & Sons, 1912.

_____.Report of the Eighteenth Annual Meeting of the National Council of Women of Canada. Toronto: G. Parker & Sons, 1911, 1913, 1917-18, 1922.

Newton, Judith L,. Mary P. Ryan, and Judith R. Walkowitz (eds.) Sex and Class in Women's History. London: Routledge & Kegan Paul, 1983.

Owram, Douglas. The Government Generation: Canadian Intellectuals and the State, 1900-1945. Toronto: University of Toronto Press, 1986.

Palmer, Howard. Patterns of Prejudice - A History of Nativism in Alberta. Toronto: McClelland and Stewart, 1982.

_____.(ed.) Peoples of Alberta: Portraits of Cultural Diversity. Saskatoon: Western Prairie Producer Books, 1985.

_____. Alberta: A New History. Edmonton: Hurtig Publishers Limited, 1990.

____ . (ed.) The Settlement of the West. Calgary: Comprint Publishing Company, 1977.

____ . (ed.) Immigration and the Rise of Multiculturalism. Vancouver: Copp Clark Publishing, 1975.

_____. Land of the Second Chance.
Lethbridge: The Lethbridge Herald, 1972.

Parr, Joy (ed.) Childhood and Family in Canadian History.
Toronto: McClelland and Stewart, 1982.

Pederson, Diana. "Building Today for the Womanhood of Tomorrow:
Businessmen, Boosters and the YWCA, 1890-1930," in Urban History Review/
Revue d'histoire Urbaine. Volume XV, No. 3 (February, 1987), pages 225-242.

Pennefather, R.S. The Orange and the Black.
Toronto: Orange and Black Publications, 1984.

Phillips, Bob. Prairie Journal.
Saskatoon, Saskatchewan: Western Producer Prairie Books, 1986.

Popham, Robert E. and Wolfgang Schmidt. Statistics of Alcohol Use and
Alcoholism in Canada, 1871-1956. Toronto: University of Toronto Press, 1958.

Prang, Margaret. "The Girl God Would Have Me Be: The Canadian Girls in
Training, 1915-1939" in The Canadian Historical Review, Vol. LXVI, No. 2, 1985,
pages 154-184.

Pue, W. Wesley and Barry Wright (eds.). Canadian Perspectives on Law & Society:
Issues in Legal History. Ottawa: Carleton University Press, 1988.

Pulker, Edward. We Stand on Their Shoulders.
Toronto: Anglican Book Centre, 1986.

Rafter, Nicole Hahn. Partial Justice: Women in State Prisons 1800-1935.
Boston: Northeastern University Press, 1985.

Riddell, W.R. "Bygone Phases of Canadian Criminal Law" in the
Journal of Criminal Law, Criminology and Police Science, Volume XXXIII, 1932,
pages 184-191.

Roberts, Wayne. Honest Womanhood.
Toronto: New Hogtown Press, 1976.

Rooke, Patricia T. and R.L. Schnell (eds.) Studies in Childhood History.
Calgary: Detselig Enterprises Ltd., 1982, pages 29-46.

Rooke, Patricia and R. L. Schnell. "An Idiot's Flowerbed" -- A Study of Charlotte
Whitton's Feminist Thought, 1941 - 50", in the International Journal of Women's
Studies, Volume 5, Number 1 (Jan/Feb) 1982.

Rosen, Ruth. The Lost Sisterhood: Prostitution in America, 1900-1918.
Baltimore and London: The Johns Hopkins University Press, 1983.

Rutherford, Paul (ed.). Saving the Canadian City: The First Phase 1880-1920.
Toronto: University of Toronto Press, 1974.

Samek, R. A. "The Enforcement of Morals: A Basic Re-examination in its Historical
Setting". The Canadian Bar Review, XLIX (1971), pages 188 to 221.

Sanders, Byrne Hope. Emily Murphy: Crusader.
Toronto: The Macmillan Company of Canada Limited, 1945.

Sanger, William. The History of Prostitution.
New York: Eugenics Publishing Company, 1939.

Savage, Candace: Our Nell.
Saskatoon, Saskatchewan: Western Producer Prairie Books, 1979.

Scott, Anne Firor. Making the Invisible Woman Visible.
Urbana: University of Illinois Press, 1984.

Semple, Neil A. "The Impact of Urbanization on the Methodist Church in Central Canada, 1854 - 1884." Unpublished Ph.D. Thesis, University of Toronto, 1979.

Senior, Hereward. "Ogle Gowan, Orangeism, and the Immigrant Question 1830-1833" in Ontario History (66) 1974. pp. 193-210.

Shaw, Rosa L. Proud Heritage.
Toronto: The Ryerson Press, 1957.

Sheehan, Nancy. "Temperance, the WCTU and Education in Alberta, 1905-1930." Unpublished Ph. D. Thesis, 1980.

Silverman, Eliane Leslau. "Writing Canadian Women's History, 1970-82: an Historiographical Analysis". The Canadian Historical Review, Vol. LXIII. No. 4, 1982, pages 513-33.

Smillie, Benjamin G. (ed.) Political Theology in the Canadian Context.
Waterloo: Wilfrid Laurier University Press, 1982.

_____. Visions of the New Jerusalem.
Edmonton: NeWest Publishers Ltd., 1983.

Smith, P.J. (ed.) Edmonton The Emerging Metropolitan Pattern.
Victoria, B.C.: University of Victoria, 1978.

Smith, W.G. Building the Nation.
Toronto: Canadian Council of the Missionary Education Movement, 1922.

Smith-Rosenberg, Carroll. Disorderly Conduct: Visions of Gender in Victorian America.
New York: Alfred A. Knopf, 1985.

Snell, James and Cynthia Comacchio Abeele. "Regulating Nuptiality: Restricting Access to Marriage in Early Twentieth-Century English-Speaking Canada" in The Canadian Historical Review, Vol. LXIX, No. 4 (December 1988), pages 466-489.

Snell, James G. "The White Life for Two: The Defense of Marriage and Sexual Morality in Canada, 1890-1914" in Histoire sociale/Social History, Vol. XVI, No. 31 (May 1983), pages 111-130.

Stephenson, Marylee. Women in Canada.
Toronto: New Press, 1973.

Strong-Boag, Veronica (ed.) A Woman With a Purpose.
Toronto: University of Toronto Press, 1980.

Struthers, James. "A Profession in Crisis: Charlotte Whitton and Canadian Social Work in the 1930s" in The Canadian Historical Review, Vol. LXII, No. 2, 1981, pages 169-185.

_____. No Fault of Their Own: Unemployment and the Canadian Welfare State 1914 1941. Toronto: University of Toronto Press, 1983.

Taylor, Charles. Radical Tories: The Conservative Tradition in Canada.
Toronto: House of Anansi Press, Ltd., 1982.

Thomas, Lewis G. (ed.) The Prairie West to 1905.
Toronto: Oxford University Press, 1975.

Thompson, F. M. L. The Rise of Respectable Society.
Cambridge: Harvard University Press, 1988.

Thompson, John Herd. The Harvests of War.
Toronto: McClelland and Stewart Limited, 1978.

Thorner, Thomas and Neil Watson. "Keeper of the King's Peace: Colonel G.E. Sanders and the Calgary Police Magistrate's Court, 1911-1932," in Urban History Review, Volume 22, No.2, 1984.

Turner, Joan and Lois Emery (eds.) Perspectives on Women in the 1980s.
Manitoba: The University of Manitoba Press, 1983.

Utley, T.E. Edmund Burke.
London: The British Council, 1957.

Valverde, Mariana. The Age of Light, Soap and Water.
Toronto: McClelland and Stewart, 1991.

Walkowitz, Judith. Prostitution and Victorian Society.
Cambridge: Cambridge University Press, 1980.

Ward, Peter. "Courtship and Social Space in Nineteenth-Century English Canada". The Canadian Historical Review, Vol. LXVIII, No. 1 (March 1987), pages 35-62.

Warne, Randi. "Maternal Feminism: A Useful Category for Examining Women's Past?"in Nola Erhardt and Pat Leginsky (eds.) The Proceedings of the Second Annual Feminist Research Forum, published by the Women's Program and Resource Centre, University of Alberta, 1989, pages 16-20.

Westfall, William. Two Worlds: The Protestant Culture of Nineteenth-Century Ontario.
Kingston and Montreal: McGill-Queen's University Press, 1989.

Wise, S.F. "Upper Canada and the Conservative Tradition" in E.G. Firth (ed.) Profiles of a Province. Toronto: Ontario Historical Society, 1967.

Wood-Allen, Mary. What A Young Girl Ought To Know.
Philadelphia: The VIR Publishing Company, 1897.

Young, Walter D. Democracy and Discontent.
Toronto: The Ryerson Press, 1969.

Zilboorg, Gregory. A History of Medical Psychology.
New York: W.W. Norton & Company, Inc., 1941.